



# LAWS 2016, CONSTITUTIONAL AMENDMENT 1

## A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 2, SECTION 13 OF THE CONSTITUTION OF NEW MEXICO TO PROTECT COMMUNITY SAFETY BY GRANTING COURTS NEW AUTHORITY TO DENY RELEASE ON BAIL PENDING TRIAL FOR DANGEROUS DEFENDANTS IN FELONY CASES WHILE RETAINING THE RIGHT TO PRETRIAL RELEASE FOR NON-DANGEROUS DEFENDANTS WHO DO NOT POSE A FLIGHT RISK.

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

### **Constitutional Amendment 1 Section 1 Laws 2016**

SECTION 1. It is proposed to amend Article 2, Section 13 of the constitution of New Mexico to read:

"All persons shall, before conviction, be bailable by sufficient sureties, except for capital offenses when the proof is evident or the presumption great and in situations in which bail is specifically prohibited by this section. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

Bail may be denied by a court of record pending trial for a defendant charged with a felony if the prosecuting authority requests a hearing and proves by clear and convincing evidence that no release conditions will reasonably protect the safety of any other person or the community. An appeal from an order denying bail shall be given preference over all other matters.

A person who is not detainable on grounds of dangerousness nor a flight risk in the absence of bond and is otherwise eligible for bail shall not be detained solely because of financial inability to post a money or property bond. A defendant who is neither a danger nor a flight risk and who has a financial inability to post a money or property bond may file a motion with the court requesting relief from the requirement to post bond. The court shall rule on the motion in an expedited manner."

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 1, aa

## LAWS 2016, CHAPTER 1

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FIFTY-SECOND LEGISLATURE, SECOND SESSION, 2016, 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 2016**

SECTION 1. SESSION EXPENSES.--

A. There is appropriated from the general fund for the expense of the legislative department of the state of New Mexico for the second session of the fifty-second legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, five million three hundred eighty-five thousand two hundred dollars (\$5,385,200) 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 \$ 205,380;

(2) per diem for members of the house of representatives \$ 342,300;

(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 \$ 6,405;

(4) mileage traveled by members of the house of representatives going to and returning

from the seat of government by the usually traveled route, one round trip \$ 9,911;

(5) salaries and employee benefits of senate employees \$ 1,541,790;

(6) salaries and employee benefits of house of representatives employees \$ 1,729,900;

(7) for expense of the senate not itemized above, three hundred seventy-nine thousand six hundred twenty-five dollars (\$379,625). No part of this item may be transferred to salaries or employee benefits;

(8) for expense of the house of representatives not itemized above, four hundred fifty-four thousand three hundred eighty-nine dollars (\$454,389). No part of this item may be transferred to salaries or employee benefits; and

(9) for session expenses of the legislative council service, the joint billroom and mailroom and joint legislative switchboard, seven hundred fifteen thousand five hundred dollars (\$715,500) to be disbursed upon vouchers signed by the director of the legislative council service or the director's designee.

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

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

## **Chapter 1 Section 2 Laws 2016**

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

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

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

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

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

B. Any person not listed in Subsection A of this section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of three hundred seventy-five dollars (\$375), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for two dollars (\$2.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished to each member of the respective houses, shall be supplied by the legislative council service at a charge of one hundred twenty-five dollars (\$125) for the entire session.

## **Chapter 1 Section 3 Laws 2016**

SECTION 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2017 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service, the following:

A. Personal Services &	
Employee Benefits	\$ 4,673,700
Contractual Services	235,000
Other Costs	1,169,500
Total	\$ 6,078,200;

B. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative expenses for fiscal year 2017, nine hundred fifty thousand dollars (\$950,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

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

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

## **Chapter 1 Section 4 Laws 2016**

SECTION 4. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2017, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 3,808,600
Contractual Services	259,600
Other Costs	335,000
Total	\$ 4,403,200.

## **Chapter 1 Section 5 Laws 2016**

SECTION 5. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2017, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$ 1,203,770
Contractual Services	16,500
Other Costs	104,300
Total	\$ 1,324,570.

## **Chapter 1 Section 6 Laws 2016**

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 2017.

## **Chapter 1 Section 7 Laws 2016**

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2017 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	\$ 943,300
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Contractual Services	163,000
Other Costs	72,500
Total	\$ 1,178,800.

## **Chapter 1 Section 8 Laws 2016**

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2017 for the operation of the senate chief clerk's office, to be disbursed on vouchers signed by the director of the legislative council service, the following:

Personal Services & Employee Benefits	\$ 998,800
Contractual Services	154,800
Other Costs	60,300
Total	\$ 1,213,900.

## **Chapter 1 Section 9 Laws 2016**

SECTION 9. LEGISLATIVE INFORMATION SYSTEM.--There is appropriated from the general fund to the legislative council service for the legislative information system, eight hundred fifty thousand eight hundred dollars (\$850,800) for expenditure in fiscal years 2016 and 2017.

## **Chapter 1 Section 10 Laws 2016**

SECTION 10. CENSUS REDISTRICTING DATA PROGRAM.--There is appropriated from the legislative cash balances to the legislative council service for the first and second phases of the 2020 census redistricting data program and to perform such functions as are necessary to prepare for redistricting in 2021, five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2016 through 2020.

## **Chapter 1 Section 11 Laws 2016**

SECTION 11. EXTENSIBLE MARKUP LANGUAGE DATABASE--SELF-PUBLICATION.--There is appropriated from the legislative cash balances to the legislative council service for the legislative share of the continued development required for the extensible markup language database, extensible markup language tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role with the New Mexico compilation commission in the self-publication of the New Mexico Statutes Annotated 1978, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2016 and 2017.

## **Chapter 1 Section 12 Laws 2016**

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

## **Chapter 1 Section 13 Laws 2016**

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

## **Chapter 1 Section 14 Laws 2016**

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

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House Bill 1, w/ec, partial veto

Approved January 27, 2016

# **LAWS 2016, CHAPTER 2**

AN ACT

RELATING TO CHILD EXPLOITATION; ESTABLISHING INCREASED PENALTIES FOR CHILD EXPLOITATION OFFENSES; CREATING A NEW BASIC SENTENCING STRUCTURE FOR SEXUAL EXPLOITATION OF CHILDREN; DECLARING AN EMERGENCY.

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

## **Chapter 2 Section 1 Laws 2016**

SECTION 1. Section 30-6A-3 NMSA 1978 (being Laws 1984, Chapter 92, Section 3, as amended) is amended to read:

"30-6A-3. SEXUAL EXPLOITATION OF CHILDREN.--

A. It is unlawful for a person to intentionally possess any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that



one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a fourth degree felony for sexual exploitation of children and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978. When a separate finding of fact made by a court or jury shows beyond a reasonable doubt that a child depicted in the visual or print medium is a child under the age of thirteen, the basic sentence shall be increased by one year, and the sentence imposed by this subsection shall be the first year served and shall not be suspended or deferred; provided that when the offender is a youthful offender, the sentence imposed by this subsection may be increased by one year.

B. The provisions of Subsection A of this section shall not apply to a depiction possessed by a child under the age of eighteen in which the depicted child is between the ages of fourteen and eighteen and the depicted child knowingly and voluntarily consented to the possession, and:

(1) the depicted child knowingly and voluntarily consented to the creation of the depiction; or

(2) the depicted child knowingly and voluntarily produced the depiction without coercion.

This subsection shall not prohibit prosecution nor create an immunity from prosecution for the possession of depictions that are the result of coercion.

C. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a third degree felony for sexual exploitation of children and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. It is unlawful for a person to intentionally cause or permit a child under eighteen years of age to engage in any prohibited sexual act or simulation of such an act if that person knows, has reason to know or intends that the act may be recorded in any obscene visual or print medium or performed publicly. A person who violates the provisions of this subsection is guilty of a third degree felony for sexual exploitation of children and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978 unless the child is under the age of thirteen, in which event the person is guilty of a second degree felony for sexual exploitation of children and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen years of age. A

person who violates the provisions of this subsection is guilty of a second degree felony for sexual exploitation of children and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

F. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a fourth degree felony.

G. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a third degree felony.

H. The penalties provided for in this section shall be in addition to those set out in Section 30-9-11 NMSA 1978."

## **Chapter 2 Section 2 Laws 2016**

SECTION 2. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.--

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

(1) for a first degree felony resulting in the death of a child, life imprisonment;

(2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;

(3) for a first degree felony, eighteen years imprisonment;

(4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;

(5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;

(6) for a second degree felony for sexual exploitation of children, twelve years imprisonment;

(7) for a second degree felony, nine years imprisonment;

(8) for a third degree felony resulting in the death of a human being, six years imprisonment;

(9) for a third degree felony for a sexual offense against a child, six years imprisonment;

(10) for a third degree felony for sexual exploitation of children, eleven years imprisonment;

(11) for a third degree felony, three years imprisonment;

(12) for a fourth degree felony for sexual exploitation of children, ten years imprisonment; or

(13) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. The court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. The period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was

suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars (\$17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);

(3) for a first degree felony, fifteen thousand dollars (\$15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(7) for a second degree felony, ten thousand dollars (\$10,000);

(8) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);

(9) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000);

(10) for a third degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(11) for a third or fourth degree felony, five thousand dollars (\$5,000); or

(12) for a fourth degree felony for sexual exploitation of children, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the

offender with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

## **Chapter 2 Section 3 Laws 2016**

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

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SJC/SPAC/House Bill 65, aa, w/ec

Approved February 25, 2016

## **LAWS 2016, CHAPTER 3**

AN ACT

RELATING TO HIGHER EDUCATION; DIRECTING THE SECRETARY OF HIGHER EDUCATION TO ESTABLISH A CONSISTENT POLICY AND ARTICULATION AGREEMENT REGARDING THE EVALUATION AND AWARD OF COLLEGE CREDIT BASED ON MILITARY TRAINING.

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

## **Chapter 3 Section 1 Laws 2016**

SECTION 1. TEMPORARY PROVISION--COLLEGE CREDIT FOR MILITARY TRAINING--REPORTING.--The higher education department, in coordination with the institutions of higher education in New Mexico, shall study, create and implement a consistent policy and develop a single articulation agreement for the state, regarding the evaluation and award of academic credit based on an active duty member of the United States military or a veteran's military training and experience toward associate's, bachelor's, master's and doctoral degrees. The department shall present a report on the

policy, its implementation and the articulation agreement to the military and veterans' affairs committee and the legislative education study committee by November 1, 2016.

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Senate Bill 153

Approved February 26, 2016

## **LAWS 2016, CHAPTER 4**

AN ACT

RELATING TO VETERANS; AMENDING THE DEFINITION OF "VETERAN" IN CERTAIN SECTIONS OF THE NMSA 1978.

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

### **Chapter 4 Section 1 Laws 2016**

SECTION 1. Section 9-22-3 NMSA 1978 (being Laws 2004, Chapter 19, Section 3, as amended) is amended to read:

"9-22-3. DEFINITIONS.--As used in the Veterans' Services Department Act:

- A. "department" means the veterans' services department;
- B. "secretary" means the secretary of veterans' services; and
- C. "veteran" means a New Mexico resident who:

(1) was regularly enlisted, drafted, inducted or commissioned in the:

(a) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(b) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, army national guard or air national guard and was accepted for and assigned to duty for a minimum of six continuous years; or

(c) United States public health service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States; and

(2) was not separated from such service under circumstances amounting to dishonorable discharge."

## **Chapter 4 Section 2 Laws 2016**

SECTION 2. Section 21-1-4.5 NMSA 1978 (being Laws 2005, Chapter 168, Section 1, as amended) is amended to read:

### **"21-1-4.5. RESIDENT TUITION FOR VETERANS OF THE ARMED FORCES OF THE UNITED STATES AND FAMILIES OF MEMBERS OF THE ARMED FORCES.--**

A. A veteran of the armed forces of the United States shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning, provided that the veteran is eligible for veterans' education benefits under federal law. In order for a veteran who is not a resident of New Mexico to receive in-state tuition rates, the veteran shall use the veteran's federal educational benefits at a state public post-secondary institution.

B. A spouse or child of an active member of the armed forces who is assigned to duty in New Mexico shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning.

C. A spouse or child of an active member of the armed forces who is assigned to duty elsewhere immediately following assignment to duty in New Mexico shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning as long as the spouse or child resides continuously in New Mexico.

D. A spouse or child of an active member of the armed forces who dies or is killed shall be deemed an in-state resident for purposes of determining tuition and fees at all state institutions of higher learning if the spouse or child becomes a resident of New Mexico within sixty days of the date of death.

E. A veteran of the armed forces who pays tuition and fees at the rate provided for New Mexico residents under this section is entitled to pay tuition and fees at the rate provided for New Mexico residents in any subsequent term or semester while the veteran is enrolled in a degree or certificate program.

F. If an active member of the armed forces is stationed outside New Mexico and the member's spouse or child establishes residence in New Mexico and files with a state institution of higher learning at which the spouse or child plans to register a letter of intent to establish and continue residing in New Mexico, the spouse or child shall be deemed an in-state resident for purposes of determining tuition and fees at that state institution of higher learning without regard to length of time that the spouse or child has resided in the state.

G. A spouse or child of an active member of the armed forces who pays tuition and fees at the rate provided for New Mexico residents under this section is entitled to pay tuition and fees at the rate provided for New Mexico residents in any subsequent term or semester while the person is continuously enrolled in the same degree or certificate program. For purposes of this subsection, a person is not required to enroll in a summer term to remain continuously enrolled in a degree or certificate program. A person's eligibility to pay tuition and fees at the rate provided for New Mexico residents under this subsection does not terminate because the person is no longer a child or spouse of a member of the armed forces.

H. A spouse or child of a veteran of the armed forces is entitled to pay tuition and fees at the rate provided for New Mexico residents; provided that the spouse or child is eligible for benefits pursuant to the federal Post-9/11 Veterans Educational Assistance Act of 2008 or any other federal law authorizing educational benefits for a veteran and the dependents of a veteran.

I. As used in this section, "armed forces" means the United States army, navy, air force, marine corps or coast guard.

J. As used in this section, "veteran" means a person who:

(1) was regularly enlisted, drafted, inducted or commissioned in the:

(a) armed forces of the United States and was accepted for and assigned to active duty in the armed forces of the United States;

(b) army reserve, navy reserve, marine corps reserve, air force reserve, coast guard reserve, army national guard or air national guard and was accepted for and assigned to duty for a minimum of six continuous years; or

(c) United States public health service commissioned corps or the national oceanic and atmospheric administration commissioned officer corps and served in the capacity of a commissioned officer while on active duty in defense of the United States; and

(2) was not separated from such service under circumstances amounting to dishonorable discharge."

## **Chapter 4 Section 3 Laws 2016**

SECTION 3. Section 66-3-412 NMSA 1978 (being Laws 1979, Chapter 299, Section 2, as amended) is amended to read:

"66-3-412. SPECIAL REGISTRATION PLATES--FIFTY PERCENT OR MORE DISABLED VETERANS--SUBMISSION OF PROOF--PENALTY.--



A. The department shall issue distinctive registration plates for up to two vehicles, including motorcycles, to a person who is a veteran of the armed forces of the United States and was fifty percent or more disabled while serving in the armed forces of the United States, upon the submission by the person of proof satisfactory to the department that the person was fifty percent or more disabled while serving in the armed forces of the United States. No fee, including the regular registration fee applicable to the passenger motor vehicle or regular motorcycle registration fees, if any, shall be collected for issuance of a special registration plate pursuant to this section. A person eligible for a special registration plate pursuant to this section and also eligible for one or more special registration plates pursuant to Sections 66-3-406, 66-3-409, 66-3-411 and 66-3-412.1 NMSA 1978 shall be issued only one special registration plate of the person's choice.

B. No person shall falsely make any representation as having been fifty percent or more disabled while serving in the armed forces of the United States so as to be eligible to be issued special registration plates pursuant to this section when the person in fact was not fifty percent or more disabled while serving in the armed forces of the United States.

C. A person who violates the provisions of Subsection B of this section is guilty of a misdemeanor.

D. As used in this section, "veteran" means an individual who was regularly enlisted, drafted, inducted or commissioned, who was accepted for and assigned to active duty in the armed forces of the United States and who was not separated from such service under circumstances amounting to dishonorable discharge."

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House Bill 17, aa

Approved February 26, 2016

## **LAWS 2016, CHAPTER 5**

AN ACT

RELATING TO PROCUREMENT; AMENDING THE RESIDENT VETERAN BUSINESS PREFERENCE; REPEALING LAWS 2012, CHAPTER 56, SECTION 2 AND LAWS 2012, CHAPTER 56, SECTION 6.

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

**Chapter 5 Section 1 Laws 2016**

SECTION 1. Section 13-1-21 NMSA 1978 (being Laws 1979, Chapter 72, Section 1, as amended) is amended to read:

"13-1-21. APPLICATION OF PREFERENCES.--

A. For the purposes of this section:

(1) "business" means a commercial enterprise carried on for the purpose of selling goods or services, including growing, producing, processing or distributing agricultural products;

(2) "formal bid process" means a competitive bid process;

(3) "formal request for proposals process" means a competitive proposal process, including a competitive qualifications-based proposal process;

(4) "public body" means a department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of the state or a political subdivision of the state and the agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts, local school boards and all municipalities, including home-rule municipalities;

(5) "recycled content goods" means supplies and materials composed twenty-five percent or more of recycled materials; provided that the recycled materials content meets or exceeds the minimum content standards required by bid specifications;

(6) "resident business" means a business that has a valid resident business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a resident veteran business; and

(7) "resident veteran business" means a business that has a valid resident veteran business certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978.

B. Except as provided in Subsection C of this section, when a public body makes a purchase using a formal bid process, the public body shall deem a bid submitted by a:

(1) resident business to be five percent lower than the bid actually submitted; or

(2) resident veteran business with annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year to be ten percent lower than the bid actually submitted.

C. When a public body makes a purchase using a formal bid process and the bids are received for both recycled content goods and nonrecycled content goods, the public body shall deem:

(1) bids submitted for recycled content goods from any business, except a resident veteran business, to be five percent lower than the bids actually submitted; or

(2) bids submitted for recycled content goods from a resident veteran business with annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year to be ten percent lower than the bids actually submitted.

D. When a public body makes a purchase using a formal request for proposals process, not including contracts awarded on a point-based system, the public body shall award an additional:

(1) five percent of the total weight of all the factors used in evaluating the proposals to a resident business; and

(2) ten percent of the total weight of all the factors used in evaluating the proposals to a resident veteran business that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year.

E. When a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award additional points equivalent to:

(1) five percent of the total possible points to a resident business; or

(2) ten percent of the total possible points to a resident veteran business that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year.

F. When a joint bid or joint proposal is submitted by a combination of resident veteran, resident or nonresident businesses, the preference provided pursuant to Subsection B, C, D or E of this section shall be calculated in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by each business as specified in the joint bid or proposal.

G. A resident veteran business shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person that is an owner of a business that is a resident veteran business shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person shall not benefit from the provisions of this section based on more than one business concurrently.

H. A public body shall not award a business both a resident business preference and a resident veteran business preference.

I. The procedures provided in Sections 13-1-172 through 13-1-183 NMSA 1978 or in an applicable purchasing ordinance apply to a protest to a public body concerning the awarding of a contract in violation of this section.

J. This section shall not apply when the expenditure includes federal funds for a specific purchase."

## **Chapter 5 Section 2 Laws 2016**

SECTION 2. Section 13-4-2 NMSA 1978 (being Laws 1984, Chapter 66, Section 2, as amended) is amended to read:

"13-4-2. APPLICATION OF PREFERENCE.--

A. For the purposes of this section:

(1) "formal bid process" means a competitive sealed bid process;

(2) "formal request for proposals process" means a competitive sealed proposal process, including a competitive sealed qualifications-based proposal process;

(3) "public body" means a department, commission, council, board, committee, institution, legislative body, agency, government corporation, educational institution or official of the executive, legislative or judicial branch of the government of the state or a political subdivision of the state and the agencies, instrumentalities and institutions thereof, including two-year post-secondary educational institutions, school districts, local school boards and all municipalities, including home-rule municipalities;

(4) "public works contract" means a contract for construction, construction management, architectural, landscape architectural, engineering, surveying or interior design services;

(5) "resident contractor" means a person that has a valid resident contractor certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978 but does not include a resident veteran contractor; and

(6) "resident veteran contractor" means a person that has a valid resident veteran contractor certificate issued by the taxation and revenue department pursuant to Section 13-1-22 NMSA 1978.

B. For the purpose of awarding a public works contract using a formal bid process, a public body shall deem a bid submitted by a:

(1) resident contractor to be five percent lower than the bid actually submitted; or

(2) resident veteran contractor with annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year to be ten percent lower than the bid actually submitted.

C. When a public body awards a contract using a formal request for proposals process, not including contracts awarded on a point-based system, the public body shall award an additional:

(1) five percent of the total weight of all the factors used in evaluating the proposals to a resident contractor; or

(2) ten percent of the total weight of all the factors used in evaluating the proposals to a resident veteran contractor that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year.

D. When a public body makes a purchase using a formal request for proposals process, and the contract is awarded based on a point-based system, the public body shall award an additional of the equivalent of:

(1) five percent of the total possible points to a resident contractor;  
or

(2) ten percent of the total possible points to a resident veteran contractor that has annual gross revenues of up to three million dollars (\$3,000,000) in the preceding tax year.

E. When a joint bid or joint proposal is submitted by a combination of resident veteran, resident or nonresident contractors, the preference provided pursuant to Subsection B, C or D of this section shall be calculated in proportion to the percentage of the contract, based on the dollar amount of the goods or services provided under the contract, that will be performed by each contractor as specified in the joint bid or joint proposal.

F. A resident veteran contractor shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person that is an owner of a business that is a resident veteran contractor shall not benefit from the preference pursuant to this section for more than ten consecutive years. A person shall not benefit from the provisions of this section based on more than one business concurrently.

G. A public body shall not award a contractor both a resident contractor preference and a resident veteran contractor preference.

H. The procedures provided in Sections 13-1-172 through 13-1-183 NMSA 1978 or in an applicable purchasing ordinance apply to a protest to a public body concerning the awarding of a contract in violation of this section."

### **Chapter 5 Section 3 Laws 2016**

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

"DUTY TO PROMULGATE RULES.--The secretary of general services shall promulgate rules necessary to implement the provisions of this 2016 act."

### **Chapter 5 Section 4 Laws 2016**

SECTION 4. REPEAL.--Laws 2012, Chapter 56, Section 2 and Laws 2012, Chapter 56, Section 6 are repealed.

### **Chapter 5 Section 5 Laws 2016**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 93, aa

Approved February 26, 2016

## **LAWS 2016, CHAPTER 6**

AN ACT

RELATING TO MILITARY AFFAIRS; AUTHORIZING ADDITIONAL AWARDS FOR SERVICE IN THE NATIONAL GUARD OF NEW MEXICO OR STATE DEFENSE FORCE; REORDERING THE PRECEDENCE OF CERTAIN AWARDS.

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

### **Chapter 6 Section 1 Laws 2016**

SECTION 1. A new Section 20-10-9.1 NMSA 1978 is enacted to read:

"20-10-9.1. COLD WAR MEDAL.--The New Mexico state defense force commander may award the New Mexico state defense force cold war medal to a member of the state defense force who has received a cold war recognition certificate. The cold war recognition certificate recognizes all members of the armed forces and

qualified federal government civilian personnel who faithfully and honorably served the United States during the cold war era from September 2, 1945 to December 26, 1991."

## **Chapter 6 Section 2 Laws 2016**

SECTION 2. A new Section 20-10-9.2 NMSA 1978 is enacted to read:

"20-10-9.2. OUTSTANDING ENLISTED LEADER OF THE YEAR RIBBON.--The adjutant general may award the outstanding enlisted leader of the year ribbon to a member of the national guard of New Mexico who has been officially selected as the New Mexico outstanding soldier of the year, airman of the year or first sergeant of the year. This ribbon is established to recognize those members who have performed above and beyond their peer group in their profession, on- or off-duty, and in their communities, reflecting great credit upon themselves and the national guard within the calendar year of the award."

## **Chapter 6 Section 3 Laws 2016**

SECTION 3. A new Section 20-10-12.2 NMSA 1978 is enacted to read:

"20-10-12.2. COUNTER-DRUG SERVICE RIBBON.--The adjutant general may award the counter-drug service ribbon to recognize soldiers and airmen of the national guard of New Mexico who have provided outstanding support to state, local and federal law enforcement officers on counter-drug operations in New Mexico since August 1989 and have served a minimum of ninety consecutive days performing counter-drug support missions in accordance with national guard regulations."

## **Chapter 6 Section 4 Laws 2016**

SECTION 4. A new Section 20-10-12.3 NMSA 1978 is enacted to read:

"20-10-12.3. COMMUNITY SERVICE RIBBON.--The adjutant general may award the community service ribbon to a member of the national guard of New Mexico or New Mexico state defense force for substantial or particularly meaningful community service above and beyond the duties required. A member's community service must contribute to the well-being of the civilian community, including the military family community. Service must be significant in nature and produce tangible results. There is not a specific time period of community service that must be performed to qualify for the award. Actions performed in accordance with regular duty requirements are not to be considered for the award. Community service may not result in a personal gain for the service member."

## **Chapter 6 Section 5 Laws 2016**

SECTION 5. A new Section 20-10-12.4 NMSA 1978 is enacted to read:

"20-10-12.4. PHYSICAL FITNESS RIBBON.--

A. The adjutant general may present a physical fitness ribbon to a currently assigned member of the national guard of New Mexico who:

(1) scores two hundred seventy or above for three consecutive years when taking all components of the army physical fitness training and meets the body fat standards for official record; or

(2) scores ninety or above for three consecutive years when taking all components of the air force fitness assessment for official record.

B. Subsequent three-year periods of service shall be acknowledged by the presentation and wearing of an affixed device signifying in arabic numerals the number of such awards to the member."

**Chapter 6 Section 6 Laws 2016**

SECTION 6. TEMPORARY PROVISION--RECOMPILATION.--Section 20-10-12 NMSA 1978 (being Laws 1987, Chapter 318, Section 74) is recompiled as Section 20-10-12.5 NMSA 1978.

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House Bill 156

Approved February 26, 2016

**LAWS 2016, CHAPTER 7**

AN ACT

RELATING TO THE VETERANS' NATIONAL CEMETERY FUND; CHANGING THE NAME OF THE VETERANS' NATIONAL CEMETERY FUND TO THE VETERANS' STATE CEMETERY FUND; REMOVING A REQUIREMENT THAT CERTAIN EXCESS AMOUNTS IN THE FUND BE DISTRIBUTED TO THE SUBSTANCE ABUSE EDUCATION FUND; REMOVING LANGUAGE FOR A CONTINGENCY THAT HAS ALREADY OCCURRED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

**Chapter 7 Section 1 Laws 2016**



SECTION 1. Section 7-1-6.18 NMSA 1978 (being Laws 1987, Chapter 257, Section 1, as amended) is amended to read:

"7-1-6.18. DISTRIBUTION--VETERANS' STATE CEMETERY FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the veterans' state cemetery fund of the amounts designated pursuant to Section 7-2-28 NMSA 1978 as contributions to that fund after the city of Santa Fe has received the balance of tax refund contributions in the amount of one million seventy thousand dollars (\$1,070,000)."

## **Chapter 7 Section 2 Laws 2016**

SECTION 2. Section 7-2-28 NMSA 1978 (being Laws 1987, Chapter 257, Section 3, as amended) is amended to read:

"7-2-28. OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION.--

A. Any individual whose state income tax liability 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 be paid into the veterans' state cemetery fund. In the case of a joint return, both individuals must make such designation.

B. The secretary shall revise the state income tax form to allow the designation by individual taxpayers of such contributions in substantially the following form:

"New Mexico Veterans' State Cemetery Fund--Check [ ] if you wish to contribute a part or all of your tax refund to the Veterans' State Cemetery Fund. Enter here \$\_\_\_\_\_ the amount of your contribution."

C. The provisions of this section do not apply to refund amounts intercepted under the Tax Refund Intercept Program Act, and any designation under the provisions of this section with respect to such intercepted refunds is void."

## **Chapter 7 Section 3 Laws 2016**

SECTION 3. Section 7-2-28.1 NMSA 1978 (being Laws 2011, Chapter 42, Section 1) is amended to read:

"7-2-28.1. VETERANS' STATE CEMETERY FUND--CREATED.--The "veterans' state cemetery 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 7-2-28 NMSA 1978. Money in the fund at the end of a fiscal year shall not revert to any other fund. The veterans' services department shall administer the fund, and money in the fund is appropriated to the veterans' services department."

## **Chapter 7 Section 4 Laws 2016**

SECTION 4. REPEAL.--Section 7-2-27 NMSA 1978 (being Laws 1987, Chapter 257, Section 2) is repealed.

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House Bill 185, aa

Approved February 26, 2016

## **LAWS 2016, CHAPTER 8**

AN ACT

RELATING TO ENDANGERED PERSONS; CREATING A BRITTANY ALERT PROCEDURE FOR THE DEPARTMENT OF PUBLIC SAFETY.

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

### **Chapter 8 Section 1 Laws 2016**

SECTION 1. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information and Reporting Act:

A. "Brittany alert" means a notification relating to an endangered person:

(1) who is a missing person; and

(2) about whom there is a clear indication that the person has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that the person's health or safety is at risk;

B. "child" means a person under the age of eighteen years who is not emancipated;

C. "clearinghouse" means the missing persons information clearinghouse;

D. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child or of an adult with a developmental disability; or a person who performs one or more activities of daily living for an adult;

E. "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;

(6) has Alzheimer's disease, dementia or another degenerative brain disorder or a brain injury; or

(7) has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that person's health or safety is at risk;

F. "immediate family member" means the spouse, nearest relative or close friend of a person;

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

H. "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;

I. "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;

J. "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;

K. "person" means an individual, regardless of age;

L. "possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

M. "reporter" means the person who reports a missing person;

N. "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;

O. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary educational institution; and

P. "state registrar" means the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act."

## **Chapter 8 Section 2 Laws 2016**

SECTION 2. A new section of the Missing Persons Information and Reporting Act is enacted to read:

"BRITTANY ALERT ADVISORY.--

A. The department of public safety shall issue a Brittany 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 Brittany 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 Brittany alert;

(2) notification to other public and private media sources and members of the public as necessary; and

(3) the provision of information about the subject of the Brittany alert, including all identifying information, to the lead station and other media sources."

## **Chapter 8 Section 3 Laws 2016**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 21

Approved February 28, 2016

## **LAWS 2016, CHAPTER 9**

AN ACT

RELATING TO YOUTHFUL OFFENDERS; ALLOWING THE USE OF THE JUVENILE DISPOSITION AND EVIDENCE GIVEN IN A HEARING IN COURT FOR A YOUTHFUL OFFENDER WHEN CONSIDERING CONDITIONS OF RELEASE FOR A CRIME.

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

## **Chapter 9 Section 1 Laws 2016**

SECTION 1. A new section of the Criminal Procedure Act is enacted to read:

"REVIEW OF YOUTHFUL OFFENDER RECORDS.--Notwithstanding any other provision of law, when considering the setting of bail or other conditions of release of a person charged with a felony, the juvenile disposition of a youthful offender and any evidence given in a hearing in court for a youthful offender may be considered. The juvenile disposition and evidence used pursuant to this section may be considered only if the person is thirty years old or younger. If a judge considers the juvenile disposition of a youthful offender or evidence given in a hearing for the youthful offender pursuant to this section, the disposition and evidence shall be considered confidential and shall be reviewed or discussed in camera. All evidence, motions or other documents or evidence pertaining to the juvenile disposition shall be sealed, unless otherwise considered not to be confidential by law."

## **Chapter 9 Section 2 Laws 2016**

SECTION 2. Section 32A-2-26 NMSA 1978 (being Laws 1993, Chapter 77, Section 55, as amended) is amended to read:

"32A-2-26. SEALING OF RECORDS.--

A. On motion by or on behalf of a person who has been the subject of a delinquency petition or on the court's own motion, the court shall vacate its findings, orders and judgments on the petition and order the legal and social files and records of the court, probation services, and any other agency in the case sealed. If requested in the motion, the court shall also order law enforcement files and records sealed. An order sealing records and files shall be entered if the court finds that:

(1) two years have elapsed since the final release of the person from legal custody and supervision or two years have elapsed since the entry of any other judgment not involving legal custody or supervision;

(2) the person has not, within the two years immediately prior to filing the motion, been convicted of a felony or of a misdemeanor involving moral turpitude or been found delinquent by a court and no proceeding is pending seeking such a conviction or finding; and

(3) the person is eighteen years of age or older or the court finds that good cause exists to seal the records prior to the child's eighteenth birthday.

B. Reasonable notice of the motion shall be given to:

(1) the children's court attorney;

(2) the authority granting the release;

(3) the law enforcement officer, department and central depository having custody of the law enforcement files and records; and

(4) any other agency having custody of records or files subject to the sealing order.

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 officers and departments and agencies shall reply, and the person may reply, to an inquiry that no record exists with respect to the person. Copies of the sealing order shall be sent to each agency or official named in the order.

D. Inspection of the files and records or the release of information in the records included in the sealing order may thereafter be permitted by the court only:

(1) upon motion by the person who is the subject of the records and only to those persons named in the motion; and

(2) in its discretion, in an individual case, to any clinic, hospital or agency that has the person under care or treatment or to other persons engaged in fact finding or research.

E. Any finding of delinquency or need of services or conviction of a crime subsequent to the sealing order may at the court's discretion be used by the court as a basis to set aside the sealing order.

F. A court may set aside a sealing order for the juvenile disposition of a youthful offender and any evidence given in a hearing in court for a youthful offender for the purpose of considering the setting of bail or other conditions of release of a person charged with a felony whether charged as an adult or a juvenile.

G. A child who has been the subject of a petition filed pursuant to the provisions of the Delinquency Act shall be notified in writing by the department when the child reaches the age of eighteen or at the expiration of legal custody and supervision, whichever occurs later, that the department's records have been sealed and that the court, the children's court attorney, the child's attorney and the referring law enforcement agency have been notified that the child's records are subject to sealing.

H. The department shall seal the child's files and records when the child reaches the age of eighteen or at the expiration of the disposition, whichever occurs later. The department shall notify the children's court attorney, the child's attorney and the referring law enforcement agency that the child's records are subject to sealing.

I. Youthful offender records sealed pursuant to Subsection H of this section may be unsealed by the court along with any evidence given in a hearing in court for a youthful offender for the purpose of considering the setting of bail or other conditions of release of a person charged with a felony, whether charged as an adult or juvenile.

J. A child who is determined by the court not to be a delinquent offender shall have the child's files and records in the instant proceeding automatically sealed by the court upon motion by the children's court attorney at the conclusion of the proceedings.

K. After sealing, the department may store and use a person's records for research and reporting purposes, subject to the confidentiality provisions of Section 32A-2-32 NMSA 1978 and other applicable federal and state laws."

Approved February 28, 2016

## **LAWS 2016, CHAPTER 10**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ALLOWING THE SECRETARY OF PUBLIC SAFETY TO MANAGE A COMPREHENSIVE CRIMINAL RECORDS DATABASE; REQUIRING THE ADMINISTRATIVE OFFICE OF THE COURTS AND OTHERS TO REPORT COURT PROCEEDINGS, ADJUDICATIONS AND REDETERMINATIONS RELATING TO THE ELIGIBILITY OF A PERSON TO RECEIVE OR POSSESS A FIREARM OR AMMUNITION OR TO OBTAIN A CONCEALED HANDGUN LICENSE TO THE FEDERAL BUREAU OF INVESTIGATION'S NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM; PROVIDING FOR A RIGHT TO INSPECT AND CORRECT RECORDS; REQUIRING RULEMAKING.

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

### **Chapter 10 Section 1 Laws 2016**

SECTION 1. A new section of the Department of Public Safety Act is enacted to read:

"SECRETARY--POWER TO MANAGE A CRIMINAL RECORDS DATABASE.--  
The secretary may create, access, maintain and otherwise manage a criminal records database that merges criminal records data from multiple databases and gives courts and law enforcement agencies access to comprehensive criminal background records of criminal suspects and defendants."

### **Chapter 10 Section 2 Laws 2016**

SECTION 2. A new section of Chapter 34, Article 9 NMSA 1978 is enacted to read:

"REPORTING TO THE NATIONAL INSTANT CRIMINAL BACKGROUND CHECK SYSTEM.--

A. In any circumstance other than that described in Subsection B of this section, the administrative office of the courts shall obtain and electronically transmit information from court proceedings relating to a person's eligibility to receive or possess a firearm or ammunition pursuant to state or federal law to the federal bureau of investigation's national instant criminal background check system. The administrative office of the courts shall also be responsible for notifying, as soon as practicable within ten days of receipt of the information, the federal bureau of investigation to update,



correct, modify or remove information affecting a person's eligibility to receive or possess a firearm or ammunition pursuant to state or federal law in the national instant criminal background check system.

B. The administrative office of the courts shall electronically transmit information about a court order, judgment or verdict to the federal bureau of investigation for entry into the national instant criminal background check system regarding each person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, disabled from receiving or possessing a firearm or ammunition.

C. Upon entry of a court order, judgment or verdict referred to in Subsection B of this section, the administrative office of the courts shall transmit to the federal bureau of investigation only that information necessary to identify the person for the sole purpose of inclusion in the national instant criminal background check system. The administrative office of the courts, consistent with rules promulgated pursuant to Subsection L of this section, shall also notify the person that, as an adjudicated mental defective or as a person committed to a mental institution, the person is disabled pursuant to federal law from receiving or possessing a firearm or ammunition.

D. A person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, disabled from receiving or possessing a firearm or ammunition or, pursuant to state law, is ineligible for a concealed handgun license may petition the court that originated the order, judgment or verdict or another court of competent jurisdiction to remove that person's firearm-related disabilities and restore the person's right to receive and possess a firearm and ammunition and the right to be eligible for a concealed handgun license. A copy of the petition seeking relief from disabilities shall be served upon the office of the attorney general and upon all parties to the proceeding resulting in a court order, judgment or verdict described in Subsection B of this section.

E. The court shall conduct a hearing and receive and consider evidence on a petition for relief described in Subsection D of this section, including evidence offered by the petitioner, concerning:

- (1) the circumstances regarding the firearm disabilities from which relief is sought;
- (2) the petitioner's mental health and criminal history records, if any;
- (3) the petitioner's reputation, developed, at a minimum, through character witness statements, testimony or other character evidence; and
- (4) changes in the petitioner's condition or circumstances since the original court order, judgment or verdict that are relevant to the relief sought.

F. After conducting a hearing on the petition, the court shall grant the petition for relief from the disability reported pursuant to Subsection B of this section if the court finds by a preponderance of the evidence that the petitioner will not be likely to act in a manner dangerous to public safety and that granting the relief will not be contrary to the public interest.

G. A record shall be kept of the proceedings held pursuant to Subsection E of this section. The decision of the court may be appealed.

H. Regardless of whether an earlier decision has been appealed, a person may petition for relief pursuant to Subsection D of this section not more than once every two years and, in the case of a person who was committed to a mental institution, not before the person has been discharged from that commitment.

I. Upon the entry of a court order granting relief from disabilities pursuant to Subsection F of this section, and as soon as practicable within ten days of receipt of the court order granting relief, the administrative office of the courts and any other state agency as applicable shall each be separately responsible for updating, correcting, modifying or removing the petitioner's record from their own databases that they make available to the national instant criminal background check system and each shall promptly notify the United States attorney general for the purpose of reporting to the national instant criminal background check system that the basis for the petitioner being disabled pursuant to federal law from receiving or possessing a firearm or ammunition no longer applies.

J. The administrative office of the courts is prohibited from disclosing information regarding a court order, judgment or verdict referred to in Subsection B of this section or regarding a petitioner or proceedings under this section, except as otherwise provided by law. Information compiled and transmitted under this section is not a public record and is not subject to disclosure pursuant to the Inspection of Public Records Act.

K. A person who is the subject of information compiled or transmitted by the administrative office of the courts pursuant to this section, or the person's authorized representative, has a right to obtain, inspect and correct information compiled or transmitted.

L. The administrative office of the courts shall promulgate rules relating to the inspection and correction of information contained in its records and relating to the transmission of corrected information by the office for inclusion in the national instant criminal background check system database and other rules as necessary to implement the provisions of this section.

M. As used in this section, the terms "adjudicated as a mental defective" and "committed to a mental institution" have the same meaning as those terms are defined in federal regulations at 27 C.F.R. Section 478.11, as amended or renumbered."

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HRPAC/House Bill 336, aa

Approved February 28, 2016

## **LAWS 2016, CHAPTER 11**

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 11 Section 1 Laws 2016**

Section 1. SHORT TITLE.--This act may be cited as the "General Appropriation Act of 2016".

### **Chapter 11 Section 2 Laws 2016**

Section 2. DEFINITIONS.--As used in the General Appropriation Act of 2016:

A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;

B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;

C. "explanatory" means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;

D. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;

E. "full-time equivalent" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 2017. 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 2016;

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 2016;

(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 11 Section 3 Laws 2016**

### 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 2016, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2017 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2016 shall revert to the general fund by October 1, 2016 unless otherwise indicated in the General Appropriation Act of 2016 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2017 shall revert to the general fund by October 1, 2017 unless otherwise indicated in the General Appropriation Act of 2016 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 2016, appropriations are made in this act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2017. If any other act of the second session of the fifty-second legislature changes existing law with regard to the name or responsibilities of an agency or the name or purpose of a fund or distribution, the appropriation made in the General Appropriation Act of 2016 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 2017 revenue collections with the revenue estimate. If the analyses indicate that revenues and transfers to the general fund are not expected to meet appropriations, then the department shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.]~~ *LINE-ITEM VETO*

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, grants, donations, bequests, insurance settlements, refunds or payments into revolving funds exceeds specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division, such money is appropriated.

J. Except for gasoline credit cards used solely for operation of official vehicles, telephone credit cards used solely for official business and procurement cards used as authorized by Section 6-5-9.1 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2016 may be expended for payment of agency-issued credit card invoices.

K. For the purpose of administering the General Appropriation Act of 2016, 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 11 Section 4 Laws 2016

Section 4. FISCAL YEAR 2017 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		2,882.8		2,882.8
(b)	Contractual services		97.6		97.6
(c)	Other	1,178.5		1,178.5	

(2) Energy council dues:

Appropriations:	36.9	36.9
Subtotal		4,195.8
TOTAL LEGISLATIVE	4,195.8	4,195.8

## **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	642.4	642.4
(b)	Contractual services	399.5	399.5
(c)	Other	512.3 2.2	514.5
Subtotal			1,556.4

### **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	532.4	532.4
(b)	Contractual services	777.0 400.0	1,177.0
(c)	Other	144.1	144.1
Subtotal			1,853.5

### **JUDICIAL STANDARDS COMMISSION:**

The purpose of the judicial standards commission program is to provide a public review process addressing complaints involving judicial misconduct to preserve the integrity and impartiality of the judicial process.

Appropriations:

(a)	Personal services and		
	employee benefits	710.2	710.2
(b)	Contractual services	19.7	19.7
(c)	Other	113.7	113.7

Any unexpended balances in the judicial standards commission remaining at the end of the fiscal year 2017 from investigation and trial cost reimbursements from respondents shall not revert.

Subtotal			843.6
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**COURT OF APPEALS:**

The purpose of the court of appeals program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and		
	employee benefits	5,392.9	5,392.9
(b)	Contractual services	18.1	18.1
(c)	Other	426.0 1.0	427.0

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed	100%
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Subtotal			5,838.0
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**SUPREME COURT:**

The purpose of the supreme court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:



(a)	Personal services and		
	employee benefits	3,136.1	3,136.1
(b)	Contractual services	12.0	12.0
(c)	Other	181.1	181.1

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	3,329.2

**ADMINISTRATIVE OFFICE OF THE COURTS:**

(1) Administrative support:

The purpose of the administrative support program is to provide administrative support to the chief justice, all judicial branch units and the administrative office of the courts so that they can effectively administer the New Mexico court system.

Appropriations:

(a)	Personal services and				
	employee benefits	3,964.9	61.4	133.4	4,159.7
(b)	Contractual services	412.6	231.0	652.5	1,296.1
(c)	Other	4,849.0	2,025.0	18.5	52.0
					6,944.5

Performance measures:

(a) Output:	Average cost per juror	\$55.00
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(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	3,022.3	2,289.1
			5,311.4

(b)	Contractual services			1,030.0	1,030.0
(c)	Other	607.2	2,227.3		2,834.5

Performance measures:

(a) Quality:	Percent of accurate driving-while-intoxicated court reports	98%
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(3) Magistrate court:

The purpose of the magistrate court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status 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	18,070.8	2,975.4	21,046.2	
(b)	Contractual services	346.5	187.8	534.3	
(c)	Other	8,851.0	314.5	300.0	9,465.5

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978, the internal service funds/interagency transfers appropriation to the magistrate court program of the administrative office of the courts includes three hundred thousand dollars (\$300,000) from the local DWI grant fund [~~for facility leases~~]. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2017 shall revert to the local DWI grant fund. *LINE-ITEM VETO*

Performance measures:

(a) Outcome:	Bench warrant revenue collected annually, in millions	\$3.3
(b) Explanatory:	Cases disposed as a percent of cases filed	100%

(4) Special court services:

The purpose of the special court services program is to provide court advocates, legal counsel and safe exchanges for children and families; to provide judges pro tem; and to adjudicate water rights disputes so the constitutional rights and safety of citizens, especially children and families, are protected.

Appropriations:

(a)	Court-appointed special advocate	1,396.7	1,396.7
(b)	Supervised visitation	881.1	881.1

(c)	Water rights	317.0	621.9	938.9	
(d)	Court-appointed attorneys		5,537.1		5,537.1
(e)	Children's mediation	226.4			226.4
(f)	Judges pro temp	30.3			30.3
(g)	Access to justice	124.7			124.7
(h)	Statewide alternative dispute resolution	3.3			3.3
(i)	Drug court	1,742.9	1,300.0	3,042.9	

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978, the internal service funds/interagency transfers appropriation to the special court services program of the administrative office of the courts includes one million three hundred thousand dollars (\$1,300,000) from the local DWI grant fund for drug courts. Any unexpended balances from appropriations made from the local DWI grant fund remaining at the end of fiscal year 2017 shall revert to the local DWI grant fund.

Subtotal				64,803.6	
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### **SUPREME COURT BUILDING COMMISSION:**

The purpose of the supreme court building commission is to retain custody and control of the supreme court building and its grounds, to provide care, preservation, repair, cleaning, heating and lighting and to hire necessary employees for these purposes.

Appropriations:

(a)	Personal services and employee benefits	735.3			735.3
(b)	Contractual services	7.4			7.4
(c)	Other	216.8		216.8	
Subtotal					959.5

### **DISTRICT COURTS:**

(1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	6,706.0	275.3	381.4	7,362.7
(b)	Contractual services	108.1	35.0	327.4	470.5
(c)	Other	211.5	154.1	51.2	416.8

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

(2) Second judicial district:

The purpose of the second judicial district court program, statutorily created in Bernalillo county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and					
	employee benefits	21,352.3		2,919.6	1,234.1	25,506.0
(b)	Contractual services	404.4	91.0	82.1		577.5
(c)	Other	1,262.9	335.5	40.0		1,638.4

The other state funds appropriation to the second judicial district court in the personal services and employee benefits category includes one hundred sixty thousand one hundred dollars (\$160,100) from the consumer settlement fund of the attorney general's office for the mortgage foreclosure settlement program. Any unexpended balance in the second judicial district court remaining at the end of the fiscal year 2017 from this appropriation shall revert to the consumer settlement fund of the attorney general's office.

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(3) Third judicial district:

The purpose of the third judicial district court program, statutorily created in Dona Ana county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and

	employee benefits	5,766.2	32.9	617.7	6,416.8
(b)	Contractual services	561.2	144.2	205.2	910.6
(c)	Other	257.8	5.1	49.2	312.1

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(4) Fourth judicial district:

The purpose of the fourth judicial district court program, statutorily created in Mora, San Miguel and Guadalupe counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	2,101.9			2,101.9
(b)	Contractual services	78.7	7.0	169.3	255.0
(c)	Other	162.8	10.0		172.8

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 97%

(5) Fifth judicial district:

The purpose of the fifth judicial district court program, statutorily created in Eddy, Chaves and Lea counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	6,163.2		58.2	6,221.4
(b)	Contractual services	295.7	55.0	424.7	775.4
(c)	Other	183.2	70.0	29.8	283.0

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(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	2,564.6		96.8	2,661.4
(b)	Contractual services	582.6	12.0	148.8	743.4
(c)	Other	139.2	20.0		159.2

Performance measures:

(a)	Explanatory: Cases disposed as a percent of cases filed	100%
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(7) Seventh judicial district:

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Catron and Sierra counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	1,979.5		281.7	2,261.2
(b)	Contractual services	283.6	16.5	122.7	422.8
(c)	Other	125.8	13.0	24.0	162.8

Performance measures:

(a)	Explanatory: Cases disposed as a percent of cases filed	100%
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(8) Eighth judicial district:

The purpose of the eighth judicial district court program, statutorily created in Taos, Colfax and Union counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	2,305.5			2,305.5
(b)	Contractual services	608.2	55.0	181.7	844.9
(c)	Other	92.7	26.0		118.7

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed	100%
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(9) Ninth judicial district:

The purpose of the ninth judicial district court program, statutorily created in Curry and Roosevelt counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	3,249.4		619.1	3,868.5
(b)	Contractual services	20.6		109.2	129.8
(c)	Other	154.8	60.7	22.8	238.3

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed	100%
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(10) Tenth judicial district:

The purpose of the tenth judicial district court program, statutorily created in Quay, De Baca and Harding counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and employee benefits	756.9			756.9
(b)	Contractual services	56.3	40.3		96.6
(c)	Other	113.8			113.8

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

(11) Eleventh judicial district:

The purpose of the eleventh judicial district court program, statutorily created in San Juan and McKinley counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	5,823.1	395.2		6,218.3
(b)	Contractual services	396.2	100.1	258.5	754.8
(c)	Other	247.7	48.9	41.4	338.0

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 96%

(12) Twelfth judicial district:

The purpose of the twelfth judicial district court program, statutorily created in Otero and Lincoln counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and				
	employee benefits	3,077.3	21.1		3,098.4
(b)	Contractual services	87.7	5.0	123.5	216.2
(c)	Other	264.0	87.6		351.6

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 90%

(13) Thirteenth judicial district:

The purpose of the thirteenth judicial district court program, statutorily created in Valencia, Sandoval and Cibola counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.



Appropriations:

(a)	Personal services and					
	employee benefits	6,363.1	279.6	291.4		6,934.1
(b)	Contractual services	190.8	251.9	411.3	102.0	956.0
(c)	Other	566.0	51.5	21.7	14.0	653.2

The other state funds appropriation to the thirteenth judicial district court in the personal services and employee benefits category includes two hundred sixteen thousand one hundred dollars (\$216,100) from the consumer settlement fund of the attorney general's office for the mortgage foreclosure settlement program. Any unexpended balance in the thirteenth judicial district court remaining at the end of fiscal year 2017 from this appropriation shall revert to the consumer settlement fund of the attorney general's office.

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 95%

Subtotal 87,825.3

**BERNALILLO COUNTY METROPOLITAN COURT:**

The purpose of the Bernalillo county metropolitan court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a)	Personal services and						
	employee benefits	18,660.9		1,609.1	184.2	158.3	20,612.5
(b)	Contractual services	2,108.0	472.5	310.1	197.9		3,088.5
(c)	Other	2,793.2	284.9	4.8	28.8		3,111.7
(d)	Other financing uses			10.0			10.0

Performance measures:

(a) Explanatory: Cases disposed as a percent of cases filed 100%

Subtotal 26,822.7

**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	4,948.6	43.4	120.1	5,112.1
(b)	Contractual services	22.8			22.8
(c)	Other	403.0	403.0		

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(2) Second judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Bernalillo county.

Appropriations:

(a)	Personal services and					
	employee benefits	17,225.5	488.1	116.8	186.9	18,017.3
(b)	Contractual services	127.6				127.6
(c)	Other	1,029.2	69.0	1,098.2		

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 9

(3) Third judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Dona Ana county.

Appropriations:

(a)	Personal services and				
	employee benefits	4,499.8	233.4	112.8	417.6
					5,263.6
(b)	Contractual services	19.0			19.0
(c)	Other	273.8		273.8	

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	2,938.1			2,938.1
(b)	Contractual services	29.3			29.3
(c)	Other	158.4		158.4	

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(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	4,737.8			4,737.8
(b)	Contractual services	20.4			20.4

(c) Other 220.4 220.4

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 employee benefits	2,623.0	42.4	127.4	2,792.8
(b)	Contractual services	18.2			18.2
(c)	Other	184.7			184.7

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 employee benefits	2,316.6			2,316.6
(b)	Contractual services	12.9			12.9
(c)	Other	155.2			155.2

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,

in months 5.8

(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	2,516.5	2,516.5
(b)	Contractual services	16.8	16.8
(c)	Other	140.1	140.1

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 7

(9) Ninth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Curry and Roosevelt counties.

Appropriations:

(a)	Personal services and		
	employee benefits	2,724.1	2,724.1
(b)	Contractual services	32.5	32.5
(c)	Other	155.3	155.3

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(10) Tenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and

ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

(a)	Personal services and			
	employee benefits	1,132.1		1,132.1
(b)	Contractual services	15.9		15.9
(c)	Other	91.6	91.6	

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(11) Eleventh judicial district, division I:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within San Juan county.

Appropriations:

(a)	Personal services and					
	employee benefits	3,770.0	75.0	134.1	105.4	4,084.5
(b)	Contractual services	69.2				69.2
(c)	Other	159.5	5.0	1.1		165.6

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months <6

(12) Eleventh judicial district, division II:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within McKinley county.

Appropriations:

(a) Personal services and

	employee benefits	2,061.3	149.0		2,210.3
(b)	Contractual services	14.9			14.9
(c)	Other	141.3		141.3	

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 5

(13) Twelfth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Lincoln and Otero counties.

Appropriations:

(a)	Personal services and				
	employee benefits	2,785.2	167.4	239.3	3,191.9
(b)	Contractual services	44.4			44.4
(c)	Other	161.0		161.0	

Performance measures:

- (a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

(14) Thirteenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Cibola, Sandoval and Valencia counties.

Appropriations:

(a)	Personal services and				
	employee benefits	4,518.1	137.7	66.0	4,721.8
(b)	Contractual services	94.6			94.6
(c)	Other	411.9	10.0		421.9

Performance measures:

(a) Efficiency: Average time from filing of petition to final disposition,  
in months 6

Subtotal 66,068.5

**ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:**

(1) Administrative support:

The purpose of the administrative support program is to provide fiscal, human resource, staff development, automation, victim program services and support to all district attorneys' offices in New Mexico and to members of the New Mexico children's safehouse network so that they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Appropriations:

(a)	Personal services and			
	employee benefits	1,279.5	104.0	1,383.5
(b)	Contractual services	299.2	25.0	324.2
(c)	Other	677.8	170.7	848.5
	Subtotal			2,556.2

**PUBLIC DEFENDER DEPARTMENT:**

(1) Criminal legal services:

The purpose of the criminal legal services program is to provide effective legal representation and advocacy for eligible clients so their liberty and constitutional rights are protected and to serve the community as a partner in ensuring a fair and efficient criminal justice system exists to sustain New Mexico's statutory and constitutional mandate to provide a statewide indigent defense system.

Appropriations:

(a)	Personal services and			
	employee benefits	29,737.7		29,737.7
(b)	Contractual services	13,025.6	50.0	13,075.6
(c)	Other	6,092.3	200.0	6,292.3

Appropriations to the public defender department shall not be used to pay hourly rates to contract attorneys.



Performance measures:

(a) Quality: Percent of felony cases resulting in a reduction of  
original formally filed charges 55%

Subtotal 49,105.6

TOTAL JUDICIAL 275,950.4 22,135.1 10,939.9 2,536.7 311,562.1

## C. GENERAL CONTROL

### ATTORNEY GENERAL:

(1) Legal services:

The purpose of the legal services program is to deliver quality opinions, counsel, representation and other legal services 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	7,227.0	7,070.7	14,297.7
(b)	Contractual services	428.0	445.9	873.9
(c)	Other	1,168.8	1,217.5	2,386.3
(d)	Other financing uses		500.0	500.0

The other state funds appropriations to the legal services program of the attorney general's office include eight million seven hundred thirty-four thousand one hundred dollars (\$8,734,100) from the consumer settlement fund of the attorney general's office.

The general fund appropriation to the legal services program of the attorney general's office in the contractual services category includes one hundred seventeen thousand dollars (\$117,000) for a nonprofit entity to provide a statewide mock trial program for high school students.

The other state funds appropriation to the legal services program in the other financing uses category includes five hundred thousand dollars (\$500,000) from the consumer settlement fund of the attorney general's office to support operations of the water resource research institute of the New Mexico state university. Any unexpended balances at the end of fiscal year 2017 from this appropriation shall revert to the consumer settlement fund of the attorney general's office.

Performance measures:

(a) Outcome: Percent of inquiries resolved within sixty days of  
complaint or referral receipt 40%

(2) Medicaid fraud:

The purpose of the medicaid fraud program is to investigate and prosecute medicaid provider fraud, recipient abuse and neglect in the medicaid program.

Appropriations:

(a)	Personal services and			
	employee benefits	528.9	1,586.6	2,115.5
(b)	Contractual services	2.2	6.8	9.0
(c)	Other	146.2	438.6	584.8
(d)	Other financing uses		3.8	3.8

Performance measures:

(a) Explanatory: Total medicaid fraud recoveries identified, in thousands \$5,000

Subtotal 20,771.0

**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	2,298.4	652.7	2,951.1
(b)	Contractual services	74.1		74.1
(c)	Other	474.5	160.0	634.5

Performance measures:

(a) Explanatory: Percent of audits completed by regulatory due date 81%

Subtotal 3,659.7

**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	16,363.0	6,723.1	1,298.3	24,384.4
(b)	Contractual services	155.3	48.3	13.0	216.6
(c)	Other	5,144.5	506.5	195.5	5,846.5

Performance measures:

- (a) Output: Percent of electronically filed returns for personal income tax and combined reporting system 92%
- (b) Outcome: Collections as a percent of collectible outstanding balances from the end of the prior fiscal year 18%
- (c) Outcome: Collections as a percent of collectible audit assessments generated in the current fiscal year plus assessments generated in the last quarter of the prior fiscal year 60%

(2) Motor vehicle:

The purpose of the motor vehicle program is to register, title and license vehicles, boats and motor vehicle dealers and to enforce operator compliance with the Motor Vehicle Code and federal regulations by conducting tests, investigations and audits.

Appropriations:

(a)	Personal services and			
	employee benefits	6,671.3	9,362.1	16,033.4
(b)	Contractual services	1,613.7	2,654.8	4,268.5
(c)	Other	3,522.9	2,200.5	5,723.4
(d)	Other financing uses		1,265.6	1,265.6

The other state funds appropriation to the motor vehicle program of the taxation and revenue department in the other financing uses category includes one million two hundred sixty-five thousand six hundred

dollars (\$1,265,600) from the weight distance tax identification permit fund for the law enforcement program of the department of public safety.

Performance measures:

- (a) Outcome: Percent of registered vehicles with liability insurance 92%
- (b) Efficiency: Average call center wait time to reach an agent, in minutes <5:00
- (c) Efficiency: Average wait time in qmatic-equipped offices, in minutes 18:00
- (d) Quality: Percent of customers rating customer service as good or higher 90%

(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	2,353.8	2,353.8
(b)	Contractual services	378.2	378.2
(c)	Other	634.5	634.5

Performance measures:

- (a) Outcome: Percent of counties in compliance with sales ratio standard of eighty-five percent assessed-value-to-market-value 96%

(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	1,413.3	1,413.3
(b)	Contractual services	23.7	23.7

(c) Other 258.6 258.6

Performance measures:

(a) Outcome: Number of tax investigations referred to prosecutors as a percent of total investigations assigned during the year 50%

(5) Program support:

The purpose of program support is to provide information system resources, human resource services, finance and accounting services, revenue forecasting and legal services to give agency personnel the resources needed to meet departmental objectives. For the general public, the program conducts hearings for resolving taxpayer protests and provides stakeholders with reliable information regarding the state's tax programs.

Appropriations:

(a)	Personal services and				
	employee benefits	12,373.6	928.6	394.8	13,697.0
(b)	Contractual services	3,471.9	81.2	51.1	3,604.2
(c)	Other	3,244.0	0.4	204.8	3,449.2

Notwithstanding the provisions of 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 Sections 7-1-6.46 and 7-1-6.47 and Subsection E of Section 7-1-6.41 NMSA 1978.

Notwithstanding the provisions of 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.

Subtotal 83,550.9

## STATE INVESTMENT COUNCIL:

(1) State investment:

The purpose of the state investment program is to provide investment management of the state's permanent funds for the citizens of New Mexico to maximize distributions to the state's operating budget while preserving the real value of the funds for future generations of New Mexicans.

Appropriations:

(a)	Personal services and				
	employee benefits		4,093.1		4,093.1

(b)	Contractual services	51,633.1	51,633.1
(c)	Other	862.8	862.8

Performance measures:

(a) Outcome: Five-year annualized investment returns to exceed internal benchmarks, in basis points >25

(b) Outcome: Five-year annualized percentile performance ranking in endowment investment peer universe <49

Subtotal 56,589.0

**ADMINISTRATIVE HEARINGS OFFICE:**

(1) Administrative hearings:

The purpose of the administrative hearings program is to adjudicate tax-, property- and motor vehicle-related administrative hearings in a fair, efficient and impartial manner independent of the executive agency that is party to the proceedings.

Appropriations:

(a)	Personal services and employee benefits	1,211.1	100.0	1,311.1
(b)	Contractual services	24.2		24.2
(c)	Other	358.2		358.2

The other state funds appropriation to the administrative hearings office includes one hundred thousand dollars (\$100,000) from the motor vehicle suspense fund.

Performance measures:

(a) Outcome: Percent of hearings for implied consent act cases not held within ninety days due to administrative hearings office error 0.5%

Subtotal 1,693.5

**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	3,098.6		3,098.6
(b)	Contractual services	126.2		126.2
(c)	Other	165.2	165.2	

Performance measures:

- (a) Outcome: General fund reserves as a percent of recurring appropriations 10%
- (b) Outcome: Error rate for the eighteen-month general fund revenue forecast, gas revenue and corporate income taxes (+/-)3.5%

(2) Community development, local government assistance and fiscal oversight:

The purpose of the community development, local government assistance and fiscal oversight program is to help counties, municipalities and special districts maintain strong communities through sound fiscal advice and oversight, technical assistance, monitoring of project and program progress and timely processing of payments, grant agreements and contracts.

Appropriations:

(a)	Personal services and				
	employee benefits	1,705.8	1,075.6	401.5	3,182.9
(b)	Contractual services	2,402.3	1,507.0	2.0	3,911.3
(c)	Other	98.8	32,917.4	9,799.8	42,816.0
(d)	Other financing uses		1,900.0		1,900.0

Notwithstanding the provisions of Section 11-6A-3 NMSA 1978, the other state funds appropriation to the community development, local government assistance and fiscal oversight program of the department of finance and administration in the other financing uses category includes one million six hundred thousand dollars (\$1,600,000) 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 [~~and magistrate court leases~~]. *LINE-ITEM VETO*

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include thirteen million one hundred thousand dollars (\$13,100,000) from the 911 enhancement fund, twenty-two million eight hundred thousand dollars (\$22,800,000) from the local DWI grant fund and one million five hundred thousand dollars (\$1,500,000) from the civil legal services fund.

~~[The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include two hundred thousand dollars (\$200,000) from the local DWI grant fund for McKinley county substance abuse detoxification and treatment center and homeless shelter. The department of finance and administration shall work with the county to supplement funding for the project with local funds.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Output: Percent of county and municipality budgets approved by the  
local government division of budgets submitted timely 90%

(b) Outcome: Number of counties and municipalities operating under a  
conditional certification during the fiscal year 5

(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to approve all state professional service contracts and to provide for and promote financial accountability for public funds throughout state government by providing state agencies and the citizens of New Mexico with timely, accurate and comprehensive information on the financial status and expenditures of the state.

Appropriations:

(a)	Personal services and			
	employee benefits	4,967.2		4,967.2
(b)	Contractual services	1,001.7		1,001.7
(c)	Other	502.6	502.6	
(d)	Other financing uses	35,347.4	37,000.0	72,347.4

The internal service funds/interagency transfers appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes thirty-seven million dollars (\$37,000,000) from the tobacco settlement program fund. Of these amounts, eighteen million five hundred thousand dollars (\$18,500,000) is contingent on enactment of House Bill 311 or similar legislation of the second session of the fifty-second legislature.

Notwithstanding the provisions of Section 27-10-3 NMSA 1978, the other state funds in the other financing uses category of the fiscal management and oversight program of the department of finance and administration includes thirty-five million three hundred forty-seven thousand four hundred dollars (\$35,347,400) from the county-supported medicaid fund.



Performance measures:

(a) Efficiency: Percent of vendor and employee payment vouchers processed  
within five working days 95%

(b) Output: Percent of bank accounts reconciled 100%

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction to agency management processes to ensure consistency, legal compliance and financial integrity, to provide human resources support and to administer the executive's exempt salary plan.

Appropriations:

(a)	Personal services and employee benefits	854.5	854.5
(b)	Contractual services	72.2	72.2
(c)	Other	49.5	49.5

(5) Dues and membership fees/special appropriations:

Appropriations:

(a)	Council of state governments	103.3	103.3
(b)	Western interstate commission for higher education	135.3	135.3
(c)	Education commission of the states	58.1	58.1
(d)	National association of state budget officers	17.7	17.7
(e)	National conference of state legislatures	137.4	137.4
(f)	Western governors'		

	association	34.5		34.5
(g)	National center for state courts	107.7		107.7
(h)	National conference of insurance legislators	9.6		9.6
(i)	National council of legislators from gaming states	2.9		2.9
(j)	National governors' association	84.2		84.2
(k)	Citizen substitute care review	388.1	180.0	568.1
(l)	Emergency water supply fund		113.3	113.3
(m)	Fiscal agent contract	1,151.1		1,151.1
(n)	State planning districts	641.1		641.1
(o)	Statewide teen court	19.1	140.0	159.1
(p)	Law enforcement protection fund	14,200.0		14,200.0
(q)	Leasehold community assistance	123.3		123.3
(r)	County detention of prisoners	2,581.1		2,581.1
(s)	Acequia and community ditch education program	430.5		430.5
(t)	New Mexico acequia			

	commission	95.2	95.2
(u)	Regional housing authority oversight	191.4	191.4
(v)	Land grant council	239.5	239.5
(w)	One-on-one youth mentoring	2,305.3	2,305.3
(x)	Domestic violence prevention shelter	76.5	76.5
(y)	Group youth mentoring	671.5	671.5

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 2017. Repayments of emergency loans made pursuant to this paragraph shall be deposited in the board of finance emergency fund pursuant to the provisions of Section 6-1-5 NMSA 1978.

The department of finance and administration shall not distribute a general fund appropriation in Subparagraphs (k) through (y) 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	159,233.0
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## **PUBLIC SCHOOL INSURANCE AUTHORITY:**

### (1) Benefits:

The purpose of the benefits program is to provide an effective health insurance package to educational employees and their eligible family members so they can be protected against catastrophic financial losses due to medical problems, disability or death.

#### Appropriations:

(a)	Contractual services	320,186.2	320,186.2
(b)	Other financing uses	673.5	673.5

#### Performance measures:

(a) Outcome:	Percent change in per-member health claim costs	6.5%
(b) Outcome:	Percent change in medical premium as compared with industry	



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		309,883.4	309,883.4
(b)	Other	48.0	48.0	
(c)	Other financing uses		3,118.3	3,118.3

Performance measures:

(a) Output:	Minimum number of years of positive fund balance	20
(b) Efficiency:	Total revenue increase to the reserve fund, in millions	\$40
(c) Efficiency:	Percent variance of medical premium change with industry average	+/-4%

(2) Program support:

The purpose of program support is to provide administrative support for the healthcare benefits administration program to assist the agency in delivering its services to its constituents.

Appropriations:

(a)	Personal services and employee benefits		1,949.8	1,949.8
(b)	Contractual services		624.4	624.4
(c)	Other	544.1	544.1	

Any unexpended balances in program support of the retiree health care authority remaining at the end of fiscal year 2017 shall revert to the healthcare benefits administration program.

Subtotal		316,168.0
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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	21,053.0	21,053.0
(b)	Other	338,240.0	338,240.0
(c)	Other financing uses	4,249.5	4,249.5

Performance measures:

- (a) Outcome: Percent of state group prescriptions filled with generic drugs 84%
- (b) Efficiency: Percent change in state employee medical premium compared with the national industry average 4%
- (c) Outcome: Percent difference between the state plan's average per-member-per-month total healthcare cost compared with the national government sector per-member-per-month total healthcare cost 4%

(2) Risk management:

The purpose of the risk management program is to protect the state's assets against property, public liability, workers' compensation, state unemployment compensation, local public bodies unemployment compensation and surety bond losses so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	4,627.0	4,627.0
(b)	Contractual services	150.0	150.0
(c)	Other	434.5	434.5
(d)	Other financing uses	3,338.8	3,338.8

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2017 shall revert to the public liability fund, workers' compensation retention fund, state unemployment compensation fund, local public body unemployment compensation fund and group self-insurance fund based on the proportion of each individual fund's assessment for the risk management program.

Performance measures:

- (a) Efficiency: Average time it takes to resolve a claim, in days 30
- (b) Output: Percent increase in the number of alternative dispute resolution bureau training and outreach events held with the top twenty loss-producing agencies 5%

(3) Risk management funds:

Appropriations:

(a)	Public liability	44,541.6	44,541.6
(b)	Surety bond	35.0	35.0
(c)	Public property reserve	12,270.0	12,270.0
(d)	Local public body unemployment compensation reserve	2,038.2	2,038.2
(e)	Workers' compensation retention	20,518.3	20,518.3
(f)	State unemployment compensation	8,063.7	8,063.7

Performance measures:

- (a) Explanatory: Projected financial position of the workers' compensation fund 50%
- (b) Explanatory: Projected financial position of the public liability fund 50%

(4) State printing services:

The purpose of the state printing services program is to provide cost-effective printing and publishing services for governmental agencies.

Appropriations:

(a)	Personal services and employee benefits	649.3	649.3
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(b)	Contractual services	5.0	5.0
(c)	Other	669.4	669.4
(d)	Other financing uses	50.1	50.1

Performance measures:

- (a) Output: Revenue generated per employee \$125,000
- (b) Outcome: Sales growth in state printing revenue 8%

(5) Facilities management:

The purpose of the facilities management program is to provide employees and the public with effective property management so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a)	Personal services and employee benefits	6,027.7	6,027.7
(b)	Contractual services	189.5	189.5
(c)	Other	5,677.2	5,677.2
(d)	Other financing uses	453.7	453.7

Performance measures:

- (a) Efficiency: Percent of capital projects completed on schedule 90%
- (b) Efficiency: Percent of capital projects within budget 90%
- (c) Outcome: Percent reduction in base rent costs for office space  
renewals 50%
- (d) Outcome: Percent of new office space leases meeting space standards 90%

(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	295.1	2,164.7	2,459.8
(b)	Contractual services	3.8	180.7	184.5
(c)	Other	251.9	8,854.0	9,105.9
(d)	Other financing uses	25.2	419.6	444.8

Performance measures:

(a) Efficiency: Average vehicle operation costs per mile, as compared to

industry average      □\$0.59

(b) Outcome: Percent increase in revenue generated by surplus property,  
as compared to prior four-year average 5%

(c) Outcome: Percent of leased vehicles that are utilized seven hundred  
and fifty miles per month      80%

(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	888.4	1,117.1	2,005.5
(b)	Contractual services		80.0	80.0
(c)	Other	135.0		135.0
(d)	Other financing uses	33.3	50.7	84.0

Performance measures:

(a) Outcome: Percent of executive branch agencies with certified  
procurement officers      90%

(b) Output: Percent of completed agency procurement compliance audits      75%

(c) Outcome: Percent of procurement code violators receiving procurement  
code training      90%

(8) Program support:

The purpose of program support is to manage the program performance process to demonstrate success.

Appropriations:

(a)	Personal services and employee benefits	3,405.3	3,405.3
(b)	Contractual services	224.0	224.0
(c)	Other	763.4	763.4

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2017 shall revert to the procurement services, state printing services, risk management, facilities management and transportation services programs based on the proportion of each individual program's assessment for program support.

Performance measures:

- (a) Output: Percent of accounts receivable dollars collected 95%
- (b) Quality: Accuracy rate for financial transactions processed through  
the statewide human resources accounting and reporting  
management system 95%

Subtotal 492,173.7

**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	5,757.9	5,757.9
(b)	Contractual services	23,625.0	23,625.0
(c)	Other	1,169.0	1,169.0

Performance measures:

(a) Outcome: Average rate of return over a cumulative five-year period 7.75%

(b) Outcome: Funding period of unfunded actuarial accrued liability, in  
years □30

Subtotal 30,551.9

## **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	550.6	30.0	580.6
(b)	Other	4.5	4.5	

Any unexpended balances in the New Mexico sentencing commission remaining at the end of fiscal year 2017 from appropriations made from the general fund shall not revert.

Subtotal 585.1

## **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	2,859.9		2,859.9
(b)	Contractual services	96.5		96.5
(c)	Other	494.4	494.4	

Subtotal 3,450.8

## **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	478.5		478.5
(b)	Contractual services	42.9		42.9
(c)	Other	42.0	42.0	
	Subtotal			563.4

**DEPARTMENT OF INFORMATION TECHNOLOGY:**

(1) Compliance and project management:

The purpose of the compliance and project management program is to provide information technology strategic planning, oversight and consulting services to New Mexico government agencies so they can improve services provided to New Mexico citizens.

Appropriations:

(a)	Personal services and			
	employee benefits	752.4		752.4
(b)	Other	44.5	44.5	
(c)	Other financing uses	140.0		140.0

(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	14,719.5	138.8	14,858.3
(b)	Contractual services	8,867.5	192.3	9,059.8
(c)	Other	21,140.7	76.5	21,217.2

(d)	Other financing uses	11,982.1	36.4	12,018.5
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Performance measures:

(a) Output: Queue-time to reach a customer service representative at the help desk, in seconds <0:10

(b) Outcome: Percent of service desk incidents resolved within the timeframe specified for their priority level 95%

(3) Equipment replacement revolving funds:

Appropriations:

(a)	Contractual services		4,009.9	4,009.9
(b)	Other	4,892.9	4,892.9	

(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		2,900.9	2,900.9
(b)	Contractual services		34.0	34.0
(c)	Other	263.7	263.7	

Performance measures:

(a) Outcome: Dollar amount of account receivables over sixty days old \$5,000,000

Subtotal			70,192.1	
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**PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:**

(1) Pension administration:

The purpose of the pension administration program is to provide information, retirement benefits and an actuarially sound fund to association members so they can receive the defined benefit they are entitled to when they retire from public service.

Appropriations:

(a)	Personal services and employee benefits	6,643.4	6,643.4
(b)	Contractual services	34,935.5	34,935.5
(c)	Other	1,238.1 7.4	1,245.5

Performance measures:

- (a) Outcome: Funding period of unfunded actuarial accrued liability, in  
years = 0
- (b) Outcome: Average rate of return on investments over a cumulative  
five-year period 7.75%

Subtotal 42,824.4

**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	2,341.5 60.4	2,401.9
(b)	Contractual services	38.8 7.6	46.4
(c)	Other	240.2 150.4 25.0	415.6

Performance measures:

- (a) Outcome: Percent of requests for access to public records in its  
custody that the commission is able to satisfy within  
twenty-four hours 100%

Subtotal 2,863.9

## SECRETARY OF STATE:

### (1) Administration and operations:

The purpose of the administration and operations program is to provide operational services to commercial and business entities and citizens, including administration of notary public commissions, uniform commercial code filings, trademark registrations and partnerships and to provide administrative services needed to carry out elections.

#### Appropriations:

(a)	Personal services and			
	employee benefits	3,801.8		3,801.8
(b)	Contractual services	127.9		127.9
(c)	Other	469.5	35.0	504.5

### (2) Elections:

The purpose of the elections program is to provide voter education and information on election law and government ethics to citizens, public officials and candidates so they can comply with state law.

#### Appropriations:

(a)	Contractual services	953.4		953.4
(b)	Other	2,301.5	750.0	3,051.5

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 seven hundred fifty thousand dollars (\$750,000) from the public election fund. Any unexpended balances in the elections program of the secretary of state at the end of fiscal year 2017 from appropriations made from the public election fund shall revert to the public election fund.

#### Performance measures:

(a) Outcome:	Percent of eligible voters registered to vote	80%
(b) Outcome:	Percent of reporting individuals in compliance with	
	campaign finance reporting requirements	100%
(c) Efficiency:	Percent of public records requests responded to within the	
	statutory deadline	100%
	Subtotal	8,439.1

## PERSONNEL BOARD:

(1) Human resource management:

The purpose of the human resource management program is to provide a flexible system of merit-based opportunity, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

(a)	Personal services and			
	employee benefits	3,856.2	215.5	4,071.7
(b)	Contractual services	35.3		35.3
(c)	Other	270.5	33.5	304.0

Performance measures:

(a) Outcome: Average number of days to fill a position from the date of posting 55

(b) Efficiency: Average state classified employee compa-ratio  95%

Subtotal 4,411.0

**PUBLIC EMPLOYEES LABOR RELATIONS BOARD:**

The purpose of the public employee labor relations board is to ensure all state and local public body employees have the right to organize and bargain collectively with their employers or to refrain from such.

Appropriations:

(a)	Personal services and			
	employee benefits	163.0		163.0
(b)	Contractual services	8.3		8.3
(c)	Other	54.8		54.8
	Subtotal			226.1

**STATE TREASURER:**

The purpose of the state treasurer program is to provide a financial environment that maintains maximum accountability for receipt, investment and disbursement of public funds to protect the financial interests of New Mexico citizens.

Appropriations:



(a)	Personal services and employee benefits	2,990.1		2,990.1
(b)	Contractual services	285.5	122.3	407.8
(c)	Other	352.6	4.0	356.6

Performance measures:

(a) Outcome: One-year annualized investment return on general fund core  
portfolio to exceed internal benchmarks, in basis points 5

Subtotal 3,754.5

TOTAL GENERAL CONTROL	130,602.6	1,484,917.8	67,377.8	14,215.1
	1,697,113.3			

## D. COMMERCE AND INDUSTRY

### BOARD OF EXAMINERS FOR ARCHITECTS:

(1) Architectural registration:

The purpose of the architectural registration program is to regulate, through enforcement and licensing, the professional conduct of architects to protect the health, safety and welfare of the general public of the state.

Appropriations:

(a)	Personal services and employee benefits	272.6		272.6
(b)	Contractual services	13.1		13.1
(c)	Other	102.0	102.0	
	Subtotal			387.7

### 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	308.0			308.0
(b)	Contractual services		52.5		52.5
(c)	Other	8.9	129.3	138.2	

Performance measures:

- (a) Outcome: Annual trade share of New Mexico ports within the west  
Texas and New Mexico region 23%

Subtotal 498.7

**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	1,642.6			1,642.6
(b)	Contractual services	337.9			337.9
(c)	Other	9,244.6	30.0	9,274.6	

Performance measures:

- (a) Output: Percent of visitors who choose New Mexico as their primary  
destination 71.5%
- (b) Outcome: New Mexico's domestic overnight visitor market share 1.1%
- (c) Outcome: Percent change in New Mexico leisure and hospitality  
employment 3%
- (d) Outcome: Percent increase of gross receipts tax revenue from

accommodations revenue 4%

(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	206.8	142.4	349.2
(b)	Contractual services	4.1	6.6	10.7
(c)	Other	721.5	1,081.3	1,802.8

Notwithstanding the provisions of Section 67-16-14 NMSA 1978, the other state funds appropriation in the other category includes two hundred thousand dollars (\$200,000) from the litter control and beautification fund for advertising and promotion.

Performance measures:

- (a) Output: Number of entities participating in collaborative applications for the cooperative advertising program 180
- (b) Outcome: Combined advertising spending of communities and entities using the tourism department's current approved brand, in thousands \$2,000

(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		939.9	939.9
(b)	Contractual services		885.5	885.5
(c)	Other	1,503.6		1,503.6

Performance measures:

(a) Output:	True adventure guide advertising revenue	\$500,000
(b) Output:	Advertising revenue per issue, in thousands	\$72

(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	952.2	952.2
(b)	Contractual services	48.3	48.3
(c)	Other	403.7	403.7
	Subtotal		18,151.0

**ECONOMIC DEVELOPMENT DEPARTMENT:**

(1) Economic development:

The purpose of the economic development program is to assist communities in preparing for their role in the new economy, focusing on high-quality job creation and improved infrastructure so New Mexicans can increase their wealth and improve their quality of life.

Appropriations:

(a)	Personal services and		
	employee benefits	1,825.0	1,825.0
(b)	Contractual services	2,446.7	2,446.7
(c)	Other	2,235.1	2,235.1

The general fund appropriation to the economic development program of the economic development department in the contractual services category includes one million one hundred eighty thousand dollars (\$1,180,000) for the New Mexico economic development corporation and one hundred thirty thousand dollars (\$130,000) for business incubators.

The general fund appropriation to the economic development program of the economic development department in the other category includes two million dollars (\$2,000,000) for the development training fund~~], of which at least one-third shall be expended for training in non-urban areas of the state,~~ and one hundred thousand dollars (\$100,000) for the technology research collaborative.

*LINE-ITEM VETO*

Performance measures:

- (a) Outcome: Number of workers trained by the job training incentive program 1,500
- (b) Outcome: Number of jobs created due to economic development department efforts 4,500
- (c) Outcome: Number of rural jobs created 1,600
- (d) Output: Number of private sector dollars leveraged by each dollar through the Local Economic Development Act 10:1
- (e) Output: Number of jobs created through the use of Local Economic Development Act funds 2,000

(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 530.1 530.1
- (b) Contractual services 81.9 81.9
- (c) Other 135.1 135.1

The general fund appropriation to the film program of the economic development department in the other category includes thirty-three thousand six hundred dollars (\$33,600) to promote film in ~~southern~~ New Mexico. *LINE-ITEM VETO*

Performance measures:

- (a) Output: Number of film and media worker days 200,000
- (b) Outcome: Direct spending by film industry productions, in millions \$200

(3) Program support:

The purpose of program support is to provide central direction to agency management processes and fiscal support to agency programs to ensure consistency, continuity and legal compliance.

Appropriations:

(a)	Personal services and			
	employee benefits	1,500.9		1,500.9
(b)	Contractual services	136.3		136.3
(c)	Other	172.0	172.0	
	Subtotal			9,063.1

**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	7,093.5	226.0	17.5
				7,337.0
(b)	Contractual services	265.2		265.2
(c)	Other	891.5	51.3	250.0
				1,192.8
(d)	Other financing uses		23.5	23.5

Performance measures:

- (a) Output: Percent of consumer complaints against licensed contractors and investigations involving unlicensed contracting resolved out of the total number of complaints filed 50%

(2) Financial institutions:

The purpose of the financial institutions program is to issue charters and licenses; perform examinations; investigate complaints; and enforce laws, rules and regulations so that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a)	Personal services and			
	employee benefits	898.7	797.2	420.0
				2,115.9

(b)	Contractual services	3.5	15.0	18.5
(c)	Other	157.1	204.3	361.4
(d)	Other financing uses		97.2	97.2

Notwithstanding the provisions of Section 9-16-15 NMSA 1978, the internal service funds/interagency transfers appropriation to the financial institutions program of the regulation and licensing department includes an additional four hundred twenty thousand dollars (\$420,000) from the mortgage regulatory fund for the general operation of the financial institutions program.

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	832.7	832.7
(b)	Contractual services	22.0	22.0
(c)	Other	68.1	68.1

Performance measures:

- (a) Output: Number of days to resolve an administrative citation that  
does not require a hearing 100
- (b) Outcome: Number of days to issue a beer and wine liquor license 110

(4) Securities:

The purpose of the securities program is to protect the integrity of the capital market in New Mexico by setting standards for licensed professionals, investigating complaints, educating the public and enforcing the law.

Appropriations:

(a)	Personal services and			
	employee benefits	875.1	616.9	1,492.0
(b)	Contractual services	2.7	180.7	183.4
(c)	Other	158.7	315.3	474.0
(d)	Other financing uses		89.2	89.2

(5) Boards and commissions:

Appropriations:

(a)	Personal services and				
	employee benefits		2,252.1	3,223.5	5,475.6
(b)	Contractual services	19.2	400.6	419.8	
(c)	Other	8.4	1,477.3	25.0	1,510.7
(d)	Other financing uses		1,753.3	1,753.3	

(6) Program support:

The purpose of program support is to provide leadership and centralized direction, financial management, information systems support and human resources support for all agency organizations in compliance with governing regulations, statutes and procedures so they can license qualified applicants, verify compliance with statutes and resolve or mediate consumer complaints.

Appropriations:

(a)	Personal services and			
	employee benefits	1,124.6	1,491.6	2,616.2
(b)	Contractual services	147.3	137.4	284.7
(c)	Other	105.3	556.1	661.4
	Subtotal			27,294.6

**PUBLIC REGULATION COMMISSION:**



(1) Policy and regulation:

The purpose of the policy and regulation program is to fulfill the constitutional and legislative mandates regarding regulated industries through rulemaking, adjudications and policy initiatives to ensure the provisions of adequate and reliable services at fair, just and reasonable rates so the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

(a)	Personal services and			
	employee benefits	6,071.6	775.4	6,847.0
(b)	Contractual services	87.8		87.8
(c)	Other	472.9	472.9	

Performance measures:

(a) Efficiency: Average number of days for a rate case to reach final order <280

(b) Outcome: Comparison of average commercial electric rates between major New Mexico utilities and selected utilities in regional western states (+/-)3%

(c) Outcome: Percent of kilowatt hours of renewable energy provided annually by New Mexico's electric utilities, measured as a percent of total retail kilowatt hours sold by New Mexico's electric utilities to New Mexico's retail electric utility customers 12%

(d) Outcome: Comparison of average residential electric rates between major New Mexico utilities and selected utilities in regional western states (+/-)2%

(2) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

(a)	Personal services and employee benefits		2,655.2	953.0	3,608.2
(b)	Contractual services		572.9		572.9
(c)	Other	1,193.1	1,193.1		

Performance measures:

- (a) Output: Number of personnel completing training through the state  
firefighter training academy 4,230
- (b) Outcome: Percent of statewide fire districts with insurance service  
office ratings of eight or better 70%

(3) Program support:

The purpose of program support is to provide administrative support and direction to ensure consistency, compliance, financial integrity and fulfillment of the agency mission.

Appropriations:

(a)	Personal services and employee benefits	193.0	1,357.0	1,550.0
(b)	Contractual services	50.6		50.6
(c)	Other	178.9	178.9	

Notwithstanding the provisions of Section 8-8-9.1 NMSA 1978, the internal service funds/interagency transfers appropriation to program support of the public regulation commission includes four hundred eighty thousand dollars (\$480,000) from the firefighter training academy use fee fund.

(4) Special revenues:

Appropriations:

(a)	Other financing uses		6,328.9	6,328.9
	Subtotal			20,890.3

**OFFICE OF SUPERINTENDENT OF INSURANCE:**

(1) Insurance policy:

The purpose of the insurance policy program is to ensure easy public access to reliable insurance products that meet consumers' needs and are underwritten by dependable, reputable, financially sound

companies that charge fair rates and are represented by trustworthy, qualified agents, while promoting a positive, competitive business climate.

Appropriations:

(a)	Personal services and employee benefits	1,200.1	5,968.6	1,622.2	8,790.9
(b)	Contractual services		771.2	532.8	1,304.0
(c)	Other	1,064.1	301.7		1,365.8

Performance measures:

(a) Efficiency: Percent of insurance fraud bureau complaints processed and recommended for either further criminal actions/prosecutions or closure within sixty days 88%

(2) Patient's compensation fund:

Appropriations:

(a)	Personal services and employee benefits		197.0		197.0
(b)	Contractual services		426.1		426.1
(c)	Other	16,260.9			16,260.9
(d)	Other financing uses		665.1		665.1

(3) Special revenues:

Appropriations:

(a)	Other financing uses		7,138.8		7,138.8
	Subtotal				36,148.6

**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	1,208.3	1,208.3
(b)	Contractual services	321.4	321.4
(c)	Other	361.3	361.3

Performance measures:

(a) Output:	Number of triennial physician licenses issued or renewed	3,850
(b) Output:	Number of biennial physician assistant licenses issued or renewed	450

Subtotal 1,891.0

**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	1,540.6	1,540.6
(b)	Contractual services	150.4	150.4
(c)	Other	582.0	582.0

Performance measures:

(a) Output:	Number of licensed practical nurse, registered nurse and advanced practice nurse licenses and unlicensed assistive personnel certificates issued	16,000
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Subtotal 2,273.0

**NEW MEXICO STATE FAIR:**

The purpose of the state fair program is to promote the New Mexico state fair as a year-round operation with venues, events and facilities that provide for greater use of the assets of the agency.

Appropriations:

(a)	Personal services and		
	employee benefits	5,575.3	5,575.3
(b)	Contractual services	2,959.6	2,959.6
(c)	Other	3,443.8	3,443.8

Performance measures:

(a) Output:	Number of paid attendees at annual state fair event	430,000
(b) Output:	Number of total attendees at annual state fair event	460,000
Subtotal		11,978.7

**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	504.8	504.8
(b)	Contractual services	224.5	224.5
(c)	Other	110.6	110.6

Performance measures:

(a) Output:	Number of licenses or certifications issued within one year	800
Subtotal		839.9

**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	3,714.2		3,714.2
(b)	Contractual services	768.0		768.0
(c)	Other	975.7	975.7	

Performance measures:

(a) Output:	Percent of racetrack audit reports completed and mailed			
	within thirty business days of field work completion			90%
(b) Output:	Percent of all tribal inspection reports completed and			
	mailed within thirty business days of field work completion			94%

Subtotal 5,457.9

**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	1,387.7		1,387.7
(b)	Contractual services	481.5	960.3	1,441.8
(c)	Other	228.0	228.0	

Performance measures:

(a) Outcome:	Percent of equine samples testing positive for illegal			
	substances	2.5%		

(b) Output:	Total amount collected from parimutuel revenues, in millions	\$1.2
Subtotal		3,057.5

**BOARD OF VETERINARY MEDICINE:**

(1) Veterinary licensing and regulatory:

The purpose of the veterinary licensing and regulatory program is to regulate the profession of veterinary medicine in accordance with the Veterinary Practice Act and to promote continuous improvement in veterinary practices and management to protect the public.

Appropriations:

(a)	Personal services and		
	employee benefits	180.0	180.0
(b)	Contractual services	106.7	106.7
(c)	Other	55.9	55.9

Performance measures:

(a) Output:	Number of veterinarian licenses issued annually	1,000
Subtotal		342.6

**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	128.9	128.9
(b)	Contractual services	118.3	3,333.4
			3,451.7
(c)	Other	239.2	239.2

Performance measures:

(a) Output:	Revenue generated from ticket sales, in millions	\$3.6
Subtotal		3,819.8

**OFFICE OF MILITARY BASE PLANNING AND SUPPORT:**

The purpose of the office of military base planning and support is to provide advice to the governor and lieutenant governor on New Mexico's four military installations, to work with community support groups, to ensure that state initiatives are complementary of community actions and to identify and address appropriate state-level issues that will contribute to the long-term viability of New Mexico military installations.

Appropriations:

(a)	Personal services and			
	employee benefits	108.0		108.0
(b)	Contractual services	70.4		70.4
(c)	Other	14.1	14.1	
	Subtotal			192.5

**SPACEPORT AUTHORITY:**

The purpose of the spaceport authority is to finance, design, develop, construct, equip and safely operate spaceport America and thereby generate significant high technology economic development throughout the state.

Appropriations:

(a)	Personal services and			
	employee benefits	444.0	1,103.8	1,547.8
(b)	Contractual services		1,401.6	1,401.6
(c)	Other	1,580.7	1,580.7	

Performance measures:

(a) Output:	Number of customers and tenants	7	
(b) Quality:	Total revenue generated from operations, in millions	\$4	
	Subtotal		4,530.1

TOTAL COMMERCE AND INDUSTRY	50,980.0	70,988.4	21,421.4	3,427.2
	146,817.0			

**E. AGRICULTURE, ENERGY AND NATURAL RESOURCES**

**CULTURAL AFFAIRS DEPARTMENT:**

(1) Museums and historic sites:



The purpose of the museums and historic sites program is to develop and enhance the quality of state museums and historic sites by providing the highest standards in exhibitions, performances and programs showcasing the arts, history and science of New Mexico and cultural traditions worldwide.

Appropriations:

(a)	Personal services and					
	employee benefits	15,392.3	1,566.7	125.0	92.5	17,176.5
(b)	Contractual services	749.9	403.9			1,153.8
(c)	Other	3,659.2	1,946.5	20.0		5,625.7

Performance measures:

(a) Output:	Attendance to museum and historic site exhibitions,	
	performances, films and other presenting programs	833,700

(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	609.8	2,141.5	598.7	3,350.0
(b)	Contractual services		105.0	314.7	419.7
(c)	Other	47.4	278.5	149.1	475.0

The other state funds appropriations to the preservation program of the cultural affairs department include one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

Performance measures:

(a) Output:	Number of participants in off-site educational, outreach	
	and special events related to preservation mission	25,146
(b) Explanatory:	Number of historic structures preservation projects	
	completed annually using preservation tax credits	32

(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	1,914.6		657.8	2,572.4
(b)	Contractual services	261.8		10.2	272.0
(c)	Other	1,285.0	47.0	700.5	2,032.5

Performance measures:

- (a) Output: Number of participants in educational, outreach and special events related to library mission 17,000
- (b) Outcome: Percent of grant funds from recurring appropriations distributed to communities of less than twenty thousand people 75%

(4) Arts:

The purpose of the arts program is to preserve, enhance and develop the arts in New Mexico through partnerships, public awareness and education.

Appropriations:

(a)	Personal services and				
	employee benefits	732.5		148.3	880.8
(b)	Contractual services	553.0		408.1	961.1
(c)	Other	106.3		50.1	156.4

Performance measures:

- (a) Output: Number of persons reached through educational and outreach programs conducted by New Mexico arts staff 5,000

(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	3,367.9	250.0	3,617.9
(b)	Contractual services	478.1	33.4	511.5
(c)	Other	302.7		302.7
	Subtotal			39,508.0

**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	663.4	3,832.1	4,495.5
(b)	Contractual services		283.1	283.1
(c)	Other	240.0	1,153.8	1,393.8

Performance measures:

(a) Output:	Number of road stops per month	85	
(b) Outcome:	Number of livestock determined to be stolen per one thousand head inspected	0.01	
(c) Outcome:	Number of disease cases per one thousand head inspected		0.1
	Subtotal		6,172.4

**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	6,651.5	212.4	6,863.9
(b)	Contractual services	128.7		128.7
(c)	Other	2,029.7	2,029.7	

Performance measures:

(a) Output: Number of conservation officer hours spent in the field

checking for compliance 45,000

(b) Output: Number of hunter and conservation education programs

delivered by field staff 700

(2) Conservation services:

The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.

Appropriations:

(a)	Personal services and employee benefits	4,489.2	5,397.4	9,886.6
(b)	Contractual services	1,096.2	2,486.6	3,582.8
(c)	Other	3,133.2	4,977.6	8,110.8
(d)	Other financing uses	1,045.6	136.7	1,182.3

The other state funds appropriation in the other financing uses category of the conservation services program of the department of game and fish includes five hundred thousand dollars (\$500,000) from the game protection fund to support hunting, fishing and trapping activities and wildlife conservation measures on state park properties and five hundred thousand dollars (\$500,000) from the trail safety fund for the state parks program of the energy, mineral and natural resources department.

Performance measures:

(a) Outcome: Number of days of elk hunting opportunity provided to New

Mexico resident hunters on an annual basis 200,000

(b) Outcome: Percent of public hunting licenses drawn by New Mexico

resident hunters 84%

(c) Output: Annual output of fish from the department's hatchery system, in pounds 640,000

(3) Wildlife depredation and nuisance abatement:

The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of, and precluded from, property damage and annoyances or risks to public safety caused by protected wildlife.

Appropriations:

(a)	Personal services and employee benefits	288.1	288.1
(b)	Contractual services	125.7	125.7
(c)	Other	488.9	488.9

Performance measures:

(a) Outcome: Percent of depredation complaints resolved within the mandated one-year timeframe 96%

(4) Program support:

The purpose of program support is to provide an adequate and flexible system of direction, oversight, accountability and support to all divisions so they may successfully attain planned outcomes for all department programs.

Appropriations:

(a)	Personal services and employee benefits	3,927.6	206.2	4,133.8
(b)	Contractual services	446.0		446.0
(c)	Other	3,087.6	3,087.6	
	Subtotal			40,354.9

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:**

(1) Energy conservation and management:

The purpose of the energy conservation and management program is to develop and implement clean energy programs to decrease per capita energy consumption, 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	623.0		411.8	1,034.8
(b)	Contractual services	100.8		277.0	377.8
(c)	Other	57.5	1,410.0	1,467.5	

(2) Healthy forests:

The purpose of the healthy forests program is to promote the health of New Mexico's forest lands by managing wildfires, mitigating urban-interface fire threats and providing stewardship of private and state forest lands and associated watersheds.

Appropriations:

(a)	Personal services and				
	employee benefits	3,294.0	198.7	1,653.0	5,145.7
(b)	Contractual services	73.8	1.5	451.9	527.2
(c)	Other	695.6	391.3	3,961.2	5,048.1
(d)	Other financing uses		45.7		45.7

Performance measures:

(a) Output:	Number of nonfederal wildland firefighters provided	
	professional and technical incident command system training	1,650
(b) Output:	Number of acres treated in New Mexico's forest and watersheds	15,500

(3) State parks:

The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.

Appropriations:

(a)	Personal services and
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	employee benefits	8,521.8	2,981.2	35.0	335.2	11,873.2
(b)	Contractual services		577.8		115.0	692.8
(c)	Other	9.6	7,911.8	3,315.0	2,687.1	13,923.5
(d)	Other financing uses		2,436.2			2,436.2

The general fund appropriations to the state parks program of the energy, minerals and natural resources department include seventy-five thousand dollars (\$75,000) to support Rio Grande trail commission efforts to define viable path routes, mitigate challenges and establish the Rio Grande trail to run the length of the state from Colorado to Texas.

The internal service funds/interagency transfers appropriations to the state parks program of the energy, minerals and natural resources department include five hundred thousand dollars (\$500,000) from the game protection fund to support hunting, fishing and trapping activities and wildlife conservation measures on state park properties. Any unexpended balances remaining at the end of fiscal year 2017 from this appropriation shall revert to the game protection fund.

Notwithstanding the provisions of Section 66-3-1019 NMSA 1978, the internal service funds/interagency transfers appropriations to the state parks program of the energy, minerals and natural resources department include five hundred thousand dollars (\$500,000) from the trail safety fund for state park operations. Any unexpended balances remaining at the end of fiscal year 2017 from this appropriation shall revert to the trail safety fund.

Performance measures:

- (a) Explanatory: Number of visitors to state parks 4,250,000
- (b) Explanatory: Self-generated revenue per visitor, in dollars \$0.96

(4) Mine reclamation:

The purpose of the mine reclamation program is to implement the state laws that regulate the operation and reclamation of hard rock and coal mining facilities and to reclaim abandoned mine sites.

Appropriations:

(a)	Personal services and					
	employee benefits	510.3	601.9	68.8	1,921.5	3,102.5
(b)	Contractual services		35.6		4,707.4	4,743.0
(c)	Other	11.7	61.8	28.1	225.9	327.5
(d)	Other financing uses		37.0			37.0

(5) Oil and gas conservation:

The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.

Appropriations:

(a)	Personal services and employee benefits	1,910.6	3,567.9	172.1	5,650.6
(b)	Contractual services	155.0	3,822.9		3,977.9
(c)	Other	250.5	503.8	113.3	867.6
(d)	Other financing uses		367.5		367.5

Performance measures:

(a) Output:	Percent of inspections of oil and gas wells and associated facilities showing compliance with permits and regulations	97%
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(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	2,818.5	1,038.0	621.3	4,477.8
(b)	Contractual services	98.8	24.0	26.7	149.5
(c)	Other	57.2	99.4	235.5	392.1
	Subtotal				66,665.5

**YOUTH CONSERVATION CORPS:**

The purpose of the New Mexico youth conservation corps is to provide funding for the employment of New Mexicans between the ages of fourteen and twenty-five to work on projects that will improve New Mexico's natural, cultural, historical and agricultural resources.

Appropriations:

(a)	Personal services and employee benefits	170.6		170.6
(b)	Contractual services	4,267.0		4,267.0
(c)	Other	238.2		238.2



Performance measures:

(a) Output:	Number of youth employed annually	850
Subtotal		4,675.8

### **INTERTRIBAL CEREMONIAL OFFICE:**

The purpose of the intertribal ceremonial office is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

Appropriations:

(a)	Contractual services	81.6	81.6
Subtotal			81.6

### **COMMISSIONER OF PUBLIC LANDS:**

(1) Land trust stewardship:

The purpose of the land trust stewardship program is to generate sustainable revenue from state trust lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect and maintain the highest level of stewardship for these lands so that they may be a significant legacy for generations to come.

Appropriations:

(a)	Personal services and employee benefits	11,505.8	11,505.8
(b)	Contractual services	2,641.0	2,641.0
(c)	Other	1,747.9	1,747.9

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of the sale, became eligible for tax credits under Section 29 of the federal Internal Revenue Code, above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balance, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

(a) Outcome:	Dollars generated through oil, natural gas and mineral audit activities, in millions	\$3
(b) Output:	Average income per acre from oil, natural gas and mineral	

activities, in dollars \$200

(c) Output: Number of acres restored to desired conditions for future

sustainability 5,450

Subtotal 15,894.7

## STATE ENGINEER:

(1) Water resource allocation:

The purpose of the water resource allocation program is to provide for efficient use of the available surface and underground waters of the state so all New Mexicans can maintain their quality of life and to provide safety inspections of all nonfederal dams within the state for owners and operators of such dams so they can operate the dam safely.

Appropriations:

(a)	Personal services and			
	employee benefits	11,636.9	622.1	12,259.0
(b)	Contractual services		624.7	624.7
(c)	Other	1,083.2	313.4	1,396.6

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include nine hundred thirty-eight thousand one hundred dollars (\$938,100) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriations to the water resource allocation program of the state engineer include nine hundred thirty-four thousand four hundred dollars (\$934,400) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriations to the water resource allocation program of the state engineer include one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of the Rio Grande income fund.

Performance measures:

(a) Output: Average number of unprotested new and pending applications

processed per month 85

(b) Explanatory: Number of unprotested and unaggrieved water right

applications backlogged 625

(c) 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	2,016.1	994.6	1,016.1		4,026.8
(b)	Contractual services	148.8	2,527.1	2,376.5	32.5	5,084.9
(c)	Other	2,003.9	1,791.5	142.4		3,937.8

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include three million seven hundred forty-four thousand six hundred dollars (\$3,744,600) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include three hundred forty-seven thousand nine hundred dollars (\$347,900) from the improvement of the Rio Grande income fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriations to the interstate stream compact compliance and water development program of the state engineer include three million nine hundred forty-four thousand seven hundred dollars (\$3,944,700) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriations to the interstate stream compact compliance and water development program of the state engineer include one million four hundred sixty-one thousand one hundred dollars (\$1,461,100) from the improvement of the Rio Grande income fund.

Revenue from the sale of water to United States government agencies by New Mexico for the emergency drought water agreement and from contractual reimbursements associated with state engineer use of the revenue is appropriated to the interstate stream compact compliance and water development program 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 and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations. Any unexpended balances remaining at the end of fiscal year 2017 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): (a) to match seventeen and one-half percent of the cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986, provided that no amount of this appropriation shall be expended for any project unless the appropriate acequia system or community ditch has agreed to provide seven and one-half percent of the cost from any source other than the New Mexico irrigation works construction fund or improvement of the Rio Grande income fund and provided that no more than two hundred fifty thousand dollars (\$250,000) shall be allocated to any one acequia or community ditch per fiscal year; and (b) for the construction, restoration, repair and protection from floods of dams, reservoirs, ditches, diversions, flumes and appurtenances of acequias and community ditches in the state through the interstate stream commission 90/10 match program, provided that not more than one hundred fifty thousand dollars (\$150,000) of this appropriation shall be used as the state share for any one acequia or community ditch per state fiscal year and capital appropriations shall not be used to meet the acequia's or community ditch's ten percent share of project costs.

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.

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to acequias and irrigation and conservancy districts.

The interstate stream commission's authority also includes five hundred thousand dollars (\$500,000) for loans to irrigation districts, conservancy districts and soil and water conservation districts for re-loan to farmers for implementation of water conservation improvements.

The interstate stream commission's authority to make loans from the New Mexico irrigation works construction fund includes two million dollars (\$2,000,000) for irrigation districts, acequias, conservancy districts and soil and water conservation districts for purchase and installation of meters and measuring equipment. The maximum loan term is five years.

Performance measures:

(a) Outcome: Cumulative state-line delivery credit per the Pecos river

compact and amended decree at the end of the calendar year,

in acre-feet >0

(b) Outcome: Cumulative state-line delivery credit per the Rio Grande

compact and amended decree at the end of the calendar year,

in acre-feet >0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a)	Personal services and employee benefits	1,499.3	3,742.9	5,242.2
(b)	Contractual services	340.4	1,095.4	1,435.8
(c)	Other	306.2	306.2	
(d)	Other financing uses	621.9		621.9

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include one million four hundred one thousand six hundred dollars (\$1,401,600) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriations to the litigation and adjudication program of the state engineer include one million five hundred ninety-five thousand five hundred dollars (\$1,595,500) from the New Mexico irrigation works construction fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include three million one hundred nine thousand seven hundred dollars (\$3,109,700) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

- (a) Outcome: Number of offers to defendants in adjudications 600
- (b) Outcome: Percent of all water rights with judicial determinations 62%

(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	3,575.8		3,575.8
(b)	Contractual services		362.3	362.3
(c)	Other	30.2	466.8	103.5
				600.5

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the internal service funds/interagency transfers appropriations to program support of the state engineer include four hundred sixty-five thousand eight hundred dollars (\$465,800) from the New Mexico irrigation works construction fund.

Notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978, the other state funds appropriation to program support of the state engineer includes four hundred sixty-six thousand eight hundred dollars (\$466,800) from the New Mexico irrigation works construction fund.

(5) New Mexico irrigation works construction fund:

Appropriations:

(a)	Other financing uses	6,550.1	6,550.1
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(6) Improvement of Rio Grande income fund:

Appropriations:

(a)	Other financing uses	347.9	347.9
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Subtotal		46,372.5
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TOTAL AGRICULTURE, ENERGY AND

NATURAL RESOURCES	68,541.3	102,393.5	12,742.9	36,047.7
219,725.4				

**F. HEALTH, HOSPITALS AND HUMAN SERVICES**

**OFFICE OF AFRICAN AMERICAN AFFAIRS:**

(1) Public awareness:

The purpose of the public awareness program is to provide information and advocacy services to all New Mexicans and to empower African-Americans of New Mexico to improve their quality of life.

Appropriations:

(a)	Personal services and		
	employee benefits	471.0	471.0

(b)	Contractual services	173.1	173.1
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(c)	Other	147.1	147.1
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Subtotal		791.2
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**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			1,071.0	1,071.0
(b)	Contractual services	394.9	556.2	487.0	1,438.1
(c)	Other	316.1		316.1	
(d)	Other financing uses			208.0	208.0

The general fund appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the contractual services category includes three hundred thousand dollars (\$300,000) for deaf and deaf-blind support service provider programs.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for the deaf and hard-of-hearing persons in the other financing uses category includes one hundred eighty-three thousand dollars (\$183,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-of-hearing rehabilitation services and twenty-five thousand dollars (\$25,000) to transfer to the signed language interpreting practices board of the regulation and licensing department for interpreter licensure services.

Performance measures:

(a) Output:	Number of accessible technology equipment distributions		1,300
(b) Output:	Number of clients provided assistance to reduce or		
	eliminate communication barriers	800	
Subtotal			3,033.2

**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	172.4	172.4
(b)	Contractual services	12.4	12.4

(c)	Other	144.5		144.5
	Subtotal			329.3

**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	1,036.9	194.7	3,750.0	4,981.6
(b)	Contractual services	19.6	23.6	159.0	202.2
(c)	Other	997.2	4,750.3	80.0	1,740.2
					7,567.7

Any unexpended balances in the blind services program of the commission for the blind remaining at the end of fiscal year 2017 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 25
- (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

Subtotal				12,751.5
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**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	1,182.8		1,182.8
(b)	Contractual services	621.6	249.3	870.9
(c)	Other	864.8	864.8	

The internal service funds/interagency transfers appropriation to the Indian affairs program of the Indian affairs department in the contractual services category includes two hundred forty-nine thousand three hundred dollars (\$249,300) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

Performance measures:

(a) Outcome: Percent of capital projects over fifty thousand dollars

completed and closed on schedule 75%

(b) Outcome: Percent of tribal infrastructure fund projects over fifty

thousand dollars completed and closed on schedule 75%

Subtotal 2,918.5

**AGING AND LONG-TERM SERVICES DEPARTMENT:**

(1) Consumer and elder rights:

The purpose of the consumer and elder rights program is to provide current information, assistance, counseling, education and support to older individuals and people with disabilities, residents of long-term care facilities and their families and caregivers that allow them to protect their rights and make informed choices about quality services.

Appropriations:

(a)	Personal services and				
	employee benefits	1,861.1	611.2	845.6	3,317.9
(b)	Contractual services	15.7		126.0	141.7
(c)	Other	38.3	81.5	398.7	518.5

Performance measures:

(a) Quality: Percent of calls to the aging and disability resource

center answered by a live operator 85%

(b) Outcome: Percent of ombudsman complaints resolved within sixty days 98%

(2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and people with disabilities so they can remain independent and involved in their communities and to provide training, education and work experience to older individuals so they can enter or re-enter the workforce and receive appropriate income and benefits.

Appropriations:

(a)	Personal services and				
	employee benefits	86.0	38.9		124.9
(b)	Contractual services	76.2	10.0		86.2
(c)	Other	30,027.4	101.1	10,557.6	40,686.1

The general fund appropriation to the aging network program of the aging and long-term services department in the other category to supplement the federal Older Americans Act shall be contracted to the designated area agencies on aging.

Any unexpended balances in the aging network program of the aging and long-term services department remaining at the end of fiscal year 2017 from appropriations made from other state funds for the conference on aging shall not revert.

Performance measures:

- (a) Outcome: Percent of older New Mexicans whose food insecurity is alleviated by meals received through the aging network 85%

(3) Adult protective services:

The purpose of the adult protective services program is to investigate allegations of abuse, neglect and exploitation of seniors and adults with disabilities and provide in-home support services to adults at high risk of repeat neglect.

Appropriations:

(a)	Personal services and				
	employee benefits	8,088.6			8,088.6
(b)	Contractual services	1,516.2	2,498.6		4,014.8
(c)	Other	1,533.1		1,533.1	

Performance measures:

- (a) Output: Number of adults who receive in-home services or adult day services as a result of an investigation of abuse, neglect

or exploitation 1,500

(b) Output: Number of adult protective services' investigations of  
abuse, neglect or exploitation 6,100

(4) Program support:

The purpose of program support is to provide clerical, record-keeping and administrative support in the areas of personnel, budget, procurement and contracting to agency staff, outside contractors and external control agencies to implement and manage programs.

Appropriations:

(a)	Personal services and				
	employee benefits	3,480.2	441.3	3,921.5	
(b)	Contractual services	123.2		123.2	
(c)	Other	147.6	182.7	330.3	
	Subtotal			62,886.8	

**HUMAN SERVICES DEPARTMENT:**

(1) Medical assistance:

The purpose of the medical assistance program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost health care.

Appropriations:

(a)	Personal services and				
	employee benefits	5,028.2	7,614.9	12,643.1	
(b)	Contractual services	11,523.3	1,655.3	759.9	43,193.1
					57,131.6
(c)	Other	804,593.8	95,405.0	174,748.3	4,171,725.6
					5,246,472.7

The appropriations to the medical assistance program of the human services department assume the state will receive an enhanced federal medical assistance percentage rate for those enrolled in the new adult category through fiscal year 2017 as provided for in the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010. Should the federal government reduce or rescind the federal medical assistance percentage rates established by the Patient Protection and Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include one million two hundred fifty-five thousand four hundred dollars

(\$1,255,400) from the tobacco settlement program fund for the breast and cervical cancer treatment program and twenty-six million sixty-three thousand nine hundred dollars (\$26,063,900) from the tobacco settlement program fund for medicaid programs. Eighteen million five hundred thousand dollars (\$18,500,000) of the internal service funds/interagency transfers appropriations to the medical assistance program of the human services department is contingent on enactment of House Bill 311 or similar legislation of the second session of the fifty-second legislature authorizing sufficient tobacco settlement revenue distributions from the tobacco settlement program fund for this appropriation.

The appropriations to the medical assistance program of the human services department in the other category contain sufficient funds to implement common age appropriate evidence-based health, behavioral health and developmental screening tools for primary care well child visits for infants and children.

The human services department shall implement changes in the medicaid program to reduce projected spending. The department shall reduce reimbursement rates paid to medicaid providers in medicaid managed care and fee-for-service programs. These reductions may include but are not limited to rescinding the primary care physician rate increase, first initiated by the federal Patient Protection and Affordable Care Act, and reducing rates paid to hospitals, including safety net care pool hospitals. The department shall reduce spending on managed care administrative costs.

The medical assistance program of the human services department shall pursue necessary federal authority to include additional cost sharing requirements for recipients of medicaid services, including co-payments for certain services and monthly premiums for certain individuals.

The general fund appropriation to the medical assistance program of the human services department assumes the department may be required to consider changes to the amount, duration and scope of allowable medicaid services and benefits, including pharmaceuticals, and implement processes to enhance eligibility verification.

The human services department shall submit fiscal impact analysis to the legislative finance committee and the department of finance and administration regarding changes to medicaid as a result of this section.

Notwithstanding the provisions of Section 27-10-3 NMSA 1978, the internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include thirty-two million five hundred ninety-four thousand five hundred dollars (\$32,594,500) from the county-supported medicaid fund.

Performance measures:

(a) Outcome: Percent of children ages two to twenty-one years enrolled

in medicaid managed care who had at least one dental visit

during the measurement year 70%

(b) Outcome: Percent of infants in medicaid managed care who had six or

more well-child visits with a primary care physician before

the age of fifteen months 68%

(c) Outcome: Average percent of children and youth ages twelve months to

nineteen years in medicaid managed care who received one or more well-child visits with a primary care physician during the measurement year 92%

(d) Outcome: Number of emergency room visits per one thousand medicaid managed-care member months 39

(e) Outcome: Percent hospital readmissions for adults in medicaid managed care, eighteen and over, within thirty days of discharge 9%

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost health care.

Appropriations:

(a)	Other	107,487.9	400,694.8	508,182.7
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The general fund appropriation to the medicaid behavioral health program of the human services department assumes the department may be required to consider changes to provider reimbursement rates and the amount, duration and scope of allowable medicaid services and benefits, including pharmacy.

The general fund appropriation to the medicaid behavioral health program of the human services department in the other category includes an additional five hundred thousand dollars (\$500,000) for support of behavioral health regional crisis stabilization units.

Performance measures:

(a) Outcome: Percent of readmissions to same level of care or higher for children or youth discharged from residential treatment centers and inpatient care 5%

(b) Output: Number of individuals served annually in substance abuse or mental health programs administered through the behavioral health collaborative and medicaid programs 160,000

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

(a)	Personal services and				
	employee benefits	20,275.2	458.3	35,162.2	55,895.7
(b)	Contractual services	5,001.1	66.7	34,819.2	39,887.0
(c)	Other	18,793.8	3,250.8	849,987.8	872,032.4

The federal funds appropriations to the income support program of the human services department include eleven million five hundred seven thousand seven hundred dollars (\$11,507,700) from the federal temporary assistance for needy families block grant for administration of the New Mexico Works Act.

The appropriations to the income support program of the human services department include eighty-seven thousand one hundred dollars (\$87,100) from the general fund and fifty-five million five hundred thousand dollars (\$55,500,000) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, two clothing allowances per year, diversion payments and state-funded payments to aliens.

The federal funds appropriations to the income support program of the human services department include eighteen million six hundred fifty-one thousand dollars (\$18,651,000) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, employment-related costs and a transitional employment program. The funds for the transitional employment program and the wage subsidy program may be used interchangeably.

The federal funds appropriations to the income support program of the human services department include thirty million five hundred twenty-seven thousand five hundred dollars (\$30,527,500) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for childcare programs, five million dollars (\$5,000,000) for home-visiting programs, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and nine hundred thousand dollars (\$900,000) for a pilot supportive housing project.

The federal funds appropriations to the income support program of the human services department include three million five hundred thousand dollars (\$3,500,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for prekindergarten.

The appropriations to the income support program of the human services department include seven million two hundred twenty thousand dollars (\$7,220,000) from the general fund and three million eighty thousand three hundred dollars (\$3,080,300) from other state funds for general assistance.

Any unexpended balances remaining at the end of fiscal year 2017 from the other state funds appropriations derived from reimbursements received from the social security administration for the general assistance program shall not revert.

The general fund appropriations to the income support program of the human services department include two hundred ten thousand nine hundred dollars (\$210,900) for the Navajo sovereign

temporary assistance for needy families program and thirty-one thousand dollars (\$31,000) for the Zuni sovereign temporary assistance for needy families program.

The general fund appropriation to the income support program of the human services department in the contractual services category includes an additional five hundred forty-eight thousand dollars (\$548,000) for the food banks program.

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 90%
- (d) Outcome: Percent of adult temporary assistance for needy families recipients who become newly employed during the report year 52%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a)	Personal services and employee benefits	1,803.0	10.0	991.0	2,804.0
(b)	Contractual services	34,886.7	169.5	16,858.4	51,914.6
(c)	Other	1,447.3	8.0	795.3	2,250.6

The general fund appropriations to the behavioral health services division of the human services department include one hundred thousand dollars (\$100,000) for Native American suicide prevention, two

hundred fifty thousand dollars (\$250,000) for non-medicaid inpatient psychiatric services and one million dollars (\$1,000,000) to continue evidence-based behavioral health services through behavioral health investment zones that take into account the risks and needs of different geographic areas of the state. The human services department shall identify investment zones based on epidemiological data and other source data that identify the combined incidence of mortality related to alcohol use, drug overdose and suicide and any other behavioral health data deemed necessary.

Performance measures:

(a) Outcome: Percent of individuals discharged from inpatient facilities

who receive follow-up services at thirty days 67%

(b) Outcome: Percent of people with a diagnosis of alcohol or drug

dependency who initiated treatment and received two or more additional services within thirty days of the initial visit 40%

(c) Explanatory: Number of suicides of youth served by the behavioral health

collaborative and medicaid programs 2

(5) Child support enforcement:

The purpose of the child support enforcement program is to provide location, establishment and collection services for custodial parents and their children; to ensure that all court orders for support payments are being met to maximize child support collections; and to reduce public assistance rolls.

Appropriations:

(a) Personal services and

employee benefits	4,684.2	3,818.3	12,006.8	20,509.3
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(b) Contractual services

1,598.0	1,302.6	4,096.1	6,996.7
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(c) Other 1,186.2 966.9

3,040.6	5,193.7
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Performance measures:

(a) Outcome: Percent of cases having support arrears due, for which

arrears are collected 67%

(b) Outcome: Amount of child support collected, in millions \$145

(c) Outcome: Percent of current support owed that is collected 62%

(d) Outcome: Percent of cases with support orders 85%



(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	4,373.0	3,398.7	11,787.7	19,559.4
(b)	Contractual services	7,150.6	149.6	14,048.6	21,348.8
(c)	Other	4,591.8	681.6	9,587.2	14,860.6

Performance measures:

- (a) Efficiency: Percent compliance with internal schedule approved by the department of finance and administration for turnaround time associated with the expenditure of federal funds and the request for reimbursement for expenditures from federal treasury 100%

Subtotal 6,937,682.9

**WORKFORCE SOLUTIONS DEPARTMENT:**

(1) Unemployment insurance:

The purpose of the unemployment insurance program is to administer an array of demand-driven workforce development services to prepare New Mexicans to meet the needs of business.

Appropriations:

(a)	Personal services and					
	employee benefits	827.5		2,339.3	5,342.4	8,509.2
(b)	Contractual services			125.0	208.6	333.6
(c)	Other	568.6	946.5	1,515.1		

The internal service funds/interagency transfers appropriations to the unemployment insurance program of the workforce solutions department include nine hundred thousand dollars (\$900,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

- (a) Output: Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim 80%
- (b) Output: Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a new unemployment insurance claim, in minutes 15
- (c) Output: Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a weekly certification, in minutes 15

(2) Labor relations:

The purpose of the labor relations program is to provide employment rights information and other work-site-based assistance to employers and employees.

Appropriations:

(a)	Personal services and employee benefits	639.6	1,033.7	330.0	2,003.3
(b)	Contractual services	8.7	36.1		44.8
(c)	Other	124.7	1,508.5	1,633.2	

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include six hundred thousand dollars (\$600,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

- (a) Output: Average number of days to investigate and issue a determination on a charge of discrimination 180
- (b) Output: Number of compliance reviews and quality assessments on registered apprenticeship programs 6

(3) Workforce technology:

The purpose of the workforce technology program is to provide and maintain customer-focused, effective and innovative information technology services for the department and its service providers.

Appropriations:

(a)	Personal services and employee benefits				3,734.8	3,734.8
(b)	Contractual services	6,532.9	1,013.1	840.5		8,386.5
(c)	Other	17.9	2,454.8	298.9	2,771.6	

Performance measures:

(a) Outcome:	Percent of time unemployment insurance benefits are paid within three business days of claimant certification					100%
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(4) Employment services:

The purpose of the employment services program is to provide standardized business solution strategies and labor market information through the New Mexico public workforce system that is responsive to the needs of New Mexico businesses.

Appropriations:

(a)	Personal services and employee benefits	187.0			7,056.3	7,243.3
(b)	Contractual services	556.3			3,389.1	3,945.4
(c)	Other	494.8	124.6	4,491.4	5,110.8	

Performance measures:

(a) Outcome:	Percent of unemployed individuals employed after receiving Wagner-Peyser employment services					55%
(b) Outcome:	Average six-month earnings of persons entering employment after receiving Wagner-Peyser employment services					\$13,500

(5) Special revenue:

Appropriations:

(a)	Other financing uses		9,236.1			9,236.1
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(6) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program to achieve organizational goals and objectives.

Appropriations:

(a)	Personal services and employee benefits			656.4	6,820.4	7,476.8
(b)	Contractual services	37.0		117.0	801.2	955.2
(c)	Other	72.6	759.0	11,920.8		12,752.4

Performance measures:

(a) Output: Number of youth receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 1,400

(b) Outcome: Percent of youth who entered employment or are enrolled in postsecondary education or advanced training after receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 57%

(c) Output: Number of adult and dislocated workers receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 2,700

(d) Outcome: Percent of individuals who enter employment after receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed by the local area workforce board 70%

(e) Output: Percent of individuals who retain employment after receiving Workforce Investment Act or Workforce Innovation and Opportunity Act services as administered and directed

by the local area workforce board 89%

Subtotal 75,652.1

## **WORKERS' COMPENSATION ADMINISTRATION:**

### (1) Workers' compensation administration:

The purpose of the workers' compensation administration program is to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.

#### Appropriations:

(a)	Personal services and		
	employee benefits	8,203.3	8,203.3
(b)	Contractual services	300.6	300.6
(c)	Other	1,452.7	1,452.7
(d)	Other financing uses	1,500.0	1,500.0

The other state funds appropriation to the workers' compensation administration program of the workers' compensation administration in the other financing uses category includes nine hundred thousand dollars (\$900,000) from the workers' compensation administration fund for the unemployment insurance program of the workforce solutions department and six hundred thousand dollars (\$600,000) from the workers' compensation administration fund for the labor relations program of the workforce solutions department.

#### Performance measures:

(a) Outcome: Rate of serious injuries and illnesses caused by workplace conditions per one hundred workers 0.6

(b) Outcome: Percent of employers referred for investigation that are determined to be in compliance with insurance requirements of the Workers' Compensation Act 93%

(c) Output: Number of first reports of injury processed 26,500

### (2) Uninsured employers' fund:

#### Appropriations:

(a)	Personal services and		
	employee benefits	322.8	322.8

(b)	Contractual services		100.0		100.0
(c)	Other	764.0		764.0	
	Subtotal				12,643.4

**DIVISION OF VOCATIONAL REHABILITATION:**

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a)	Personal services and				
	employee benefits	2,718.4		10,044.2	12,762.6
(b)	Contractual services	638.7		1,184.9	1,823.6
(c)	Other	1,409.8	410.0	183.0	9,781.6
					11,784.4

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes one hundred eighty-three thousand dollars (\$183,000) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

Performance measures:

- (a) Outcome: Number of clients achieving suitable employment for a minimum of ninety days 925
- (b) Outcome: Percent of clients achieving suitable employment outcomes of all cases closed after receiving planned services 56%

(2) Independent living services:

The purpose of the independent living services program is to increase access for individuals with disabilities to technologies and services needed for various applications in learning, working and home management.

Appropriations:

(a)	Personal services and				
	employee benefits	51.3			51.3

(b)	Contractual services	1,150.4	50.0	256.1	1,456.5
(c)	Other	7.7		7.7	

Performance measures:

(a) Output:	Number of individuals served for independent living	1,275
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(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		6,290.1	6,290.1
(b)	Contractual services		2,102.7	2,102.7
(c)	Other	8,714.7	8,714.7	

Performance measures:

(a) Efficiency:	Average number of days for completing an initial disability claim	100
(b) Quality:	Percent of initial disability determinations completed accurately	98.5%

Subtotal		44,993.6
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**GOVERNOR'S COMMISSION ON DISABILITY:**

(1) Governor's commission on disability:

The purpose of the governor's commission on disability program is to promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or other factors. The commission educates state administrators, legislators and the general public on the issues facing New Mexicans with disabilities, especially as they relate to Americans with Disabilities Act directives, building codes, disability technologies and disability culture so they can improve the quality of life of New Mexicans with disabilities.

Appropriations:

(a)	Personal services and employee benefits	732.0	195.9	927.9
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(b)	Contractual services	163.8		96.4	260.2
(c)	Other	181.6	100.0	142.1	423.7

Performance measures:

- (a) Outcome: Percent of requested architectural plan reviews and site inspections completed 90%

(2) Brain injury advisory council:

The purpose of the brain injury advisory council program is to provide guidance on the use and implementation of programs provided through the human services department's brain injury services fund so the department may align service delivery with needs identified by the brain injury community.

Appropriations:

(a)	Personal services and employee benefits	74.8		74.8
(b)	Contractual services	81.3		81.3
(c)	Other	61.1		61.1
	Subtotal			1,829.0

**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	383.9		211.6	595.5
(b)	Contractual services	18.3		267.6	285.9
(c)	Other	295.3	75.0	5.0	375.3

(2) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible people and to help file, investigate and resolve complaints about



guardianship services provided by contractors to maintain the dignity, safety and security of the indigent and incapacitated adults of the state.

Appropriations:

(a)	Personal services and			
	employee benefits	451.7		451.7
(b)	Contractual services	4,127.6	258.3	550.0
				4,935.9
(c)	Other	90.8		90.8

Any unexpended balance in the office of guardianship program of the developmental disabilities planning council remaining at the end of fiscal year 2017 from appropriations made from the general fund and internal service funds/interagency transfers shall not revert.

Performance measures:

(a) Outcome:	Percent of protected people properly served with the least restrictive means, as evidenced by an annual technical compliance audit		
		95%	

Subtotal 6,735.1

**MINERS' HOSPITAL OF NEW MEXICO:**

(1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

Appropriations:

(a)	Personal services and			
	employee benefits	17,669.9		17,669.9
(b)	Contractual services	3,325.4	374.6	3,700.0
(c)	Other	6,000.0	100.0	6,100.0
(d)	Other financing uses		1,000.0	1,000.0

~~[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 up to one million dollars (\$1,000,000) from other state funds to transfer to the medical assistance program of the human services department for the state share of medical expenditures.] LINE-ITEM VETO~~

The internal service funds/interagency transfers appropriation to the healthcare program of miners' hospital of New Mexico in the other category includes six million dollars (\$6,000,000) from the miners' trust fund.

Performance measures:

- (a) Outcome: Annual percent of healthcare-associated infections <1.5%
  - (b) Outcome: Rate of unassisted patient falls per one thousand patient days in the long-term care facility <5%
  - (c) Quality: Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis <5%
  - (d) Output: Percent occupancy in acute care facility based on number of licensed beds 35%
- Subtotal 28,469.9

**DEPARTMENT OF HEALTH:**

(1) Public health:

The purpose of the public health program is to provide a coordinated system of community-based public health services focusing on disease prevention and health promotion to improve health status, reduce disparities and ensure timely access to quality, culturally competent health care.

Appropriations:

(a)	Personal services and					
	employee benefits	23,970.3	2,586.7	2,989.9	22,288.7	51,835.6
(b)	Contractual services	17,351.4	7,814.6	13,355.3	12,995.0	
		51,516.3				
(c)	Other	12,907.0	26,629.9	245.1	37,303.2	77,085.2
(d)	Other financing uses	462.3			462.3	

The internal service funds/interagency transfers appropriations to the public health program of the department of health include five million four hundred thirty-five thousand two hundred dollars (\$5,435,200) from the tobacco settlement program fund for smoking cessation and prevention programs, seven hundred fifteen thousand five hundred dollars (\$715,500) from the tobacco settlement program fund for diabetes and obesity prevention and control services, two hundred ninety-three thousand dollars (\$293,000) from the tobacco settlement program fund for HIV/AIDS prevention, services and medicine and one hundred twenty-eight thousand six hundred dollars (\$128,600) from the tobacco settlement program fund for breast and cervical cancer screening.

~~[The general fund appropriation to the public health program of the department of health in the contractual services category includes two hundred fifty thousand dollars (\$250,000) for health career training in southwest New Mexico.] LINE-ITEM VETO~~

The general fund appropriation to the public health program of the department of health in the contractual services category includes six million four hundred thirteen thousand eight hundred dollars (\$6,413,800) to support rural and primary health clinics statewide. Any unexpended balances in the public health program of the department of health in the contractual services category from appropriations made from the county-supported medicaid fund for the support of primary healthcare services related to the Rural Primary Healthcare Act remaining at the end of fiscal year 2017 shall not revert.

Notwithstanding the provisions of Section 27-10-3 NMSA 1978, the internal service funds/interagency transfers appropriation to the public health program of the department of health includes two million seven hundred fifty-two thousand nine hundred dollars (\$2,752,900) from the county-supported medicaid fund.

Performance measures:

- (a) Outcome: Percent of third grade children who are considered obese 17.1%
- (b) Outcome: Diabetes hospitalization rate per one hundred thousand population 177
- (c) Outcome: Births to teens ages fifteen to nineteen per one thousand females ages fifteen to nineteen 25.5
- (d) Output: Percent of preschoolers, ages nineteen to thirty-five months, fully immunized 85%

(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 4,051.8 1,120.7 207.3 7,821.4 13,201.2
- (b) Contractual services 3,657.5 111.8 215.1 3,850.2 7,834.6
- (c) Other 5,327.9 58.6 123.1 2,461.1 7,970.7

Performance measures:

- (a) Outcome: Percent of vital records customers satisfied with the

service they received 95%

(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	5,580.5	1,271.0	13.3	1,017.9 7,882.7
(b)	Contractual services	135.7	85.0		17.7 238.4
(c)	Other	2,299.7	1,084.3	83.0	1,332.4 4,799.4

(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	47,470.9		56,568.9	714.0 104,753.8
(b)	Contractual services	3,885.7	8,742.6		12,628.3
(c)	Other	8,694.1	14,459.6		23,153.7

Performance measures:

- (a) Efficiency: Percent of eligible third-party revenue collected at all agency facilities 92%
- (b) Outcome: Number of falls resulting in major injury per one thousand long-term care patient days 3
- (c) Efficiency: Vacancy rate for direct care positions 10%

(5) Developmental disabilities support:

The purpose of the developmental disabilities support program is to administer a statewide system of community-based services and support to improve the quality of life and increase the independence and

interdependence of individuals with developmental disabilities and children with or at risk for developmental delay or disability and their families.

Appropriations:

(a)	Personal services and					
	employee benefits	5,404.9	5,555.1	477.3	11,437.3	
(b)	Contractual services	10,689.8	1,200.0	2,060.7	1,261.2	15,211.7
(c)	Other	19,891.2	400.0	1,229.2	1,080.7	22,601.1
(d)	Other financing uses	111,421.8				111,421.8

Performance measures:

(a) Explanatory: Number of individuals receiving developmental disabilities

waiver services 4,700

(b) Explanatory: Number of individuals on the developmental disabilities

waiver waiting list 6,300

(c) Outcome: Percent of adults receiving community inclusion services

through the developmental disabilities waiver who receive

employment services 33%

(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	3,946.6	947.4	3,253.7	1,949.5	10,097.2
(b)	Contractual services	156.9	406.2	486.5	129.5	1,179.1
(c)	Other	318.3	583.9	422.9	438.0	1,763.1

Performance measures:

(a) Outcome: Abuse rate for developmental disability waiver and mi via

waiver clients 8%

(b) Outcome: Re-abuse rate for developmental disabilities waiver and mi

via waiver clients 9%

(7) Medical cannabis:

The purpose of the medical cannabis program is to provide qualified patients with the means to legally and beneficially consume medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments and to regulate a system of production and distribution of medical cannabis to ensure an adequate supply.

Appropriations:

(a)	Personal services and		
	employee benefits	1,114.7	1,114.7
(b)	Contractual services	147.9	147.9
(c)	Other	250.6	250.6

(8) Administration:

The purpose of the administration program is to provide leadership, policy development, information technology, administrative and legal support to the department of health so it achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a)	Personal services and				
	employee benefits	4,926.1	412.9	5,921.9	11,260.9
(b)	Contractual services	170.1		799.7	969.8
(c)	Other	428.8	1,120.2	1,549.0	
	Subtotal			552,366.4	

## DEPARTMENT OF ENVIRONMENT:

(1) Resource protection:

The purpose of the resource protection program is to monitor and provide regulatory oversight of the generation, storage, transportation and disposal of wastes in New Mexico. The program also oversees the investigation and cleanup of environmental contamination covered by the Resource Conservation and Recovery Act.

Appropriations:

(a)	Personal services and				
	employee benefits	1,292.9	7,172.6	2,521.3	10,986.8
(b)	Contractual services	12.0	733.8	1,147.3	1,893.1
(c)	Other	139.6	955.8	639.8	1,735.2

Performance measures:

- (a) Outcome: Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection requirements of the petroleum storage tanks regulations 80%

(2) Water protection:

The purpose of the water protection program is to protect and preserve the ground, surface and drinking water resources of the state for present and future generations. The program also helps New Mexico communities develop sustainable and secure water, wastewater and solid waste infrastructure through funding, technical assistance and project oversight.

Appropriations:

(a)	Personal services and				
	employee benefits	1,631.9	590.2	7,718.1	6,080.2
(b)	Contractual services	801.0	3,972.2	3,921.9	8,695.1
(c)	Other	402.0	849.0	1,121.2	2,372.2

Performance measures:

- (a) Output: Percent of groundwater discharge permitted facilities receiving annual field inspections and compliance evaluations 60%
- (b) Outcome: Percent of permitted facilities where monitoring results demonstrate compliance with groundwater standards 70%

(3) Environmental protection:

The purpose of the environmental protection program is to ensure New Mexicans breathe healthy air; to protect public health and the environment through specific programs that provide regulatory oversight of

food service and food processing facilities, on-site treatment and disposal of liquid wastes, public swimming pools and baths and medical radiation and radiological technologist certification; and to ensure every employee has safe and healthful working conditions.

Appropriations:

(a)	Personal services and				
	employee benefits	4,661.0	71.3	10,552.0	2,074.9 17,359.2
(b)	Contractual services	12.3		1,774.7	243.2 2,030.2
(c)	Other	954.6	2.4	1,656.0	776.5 3,389.5

Performance measures:

(a) Explanatory: Occupational fatality rate per one hundred thousand workers  5

(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to all programs within the department. This support allows the department to operate in the most responsible, efficient and effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a)	Personal services and				
	employee benefits	2,182.6		2,947.7	1,314.1 6,444.4
(b)	Contractual services	247.8		202.7	460.7 911.2
(c)	Other	360.1		471.6	311.4 1,143.1

Performance measures:

(a) Output: Percent of enforcement actions initiated within one year of inspection or documentation of violation 96%

(5) Special revenue funds:

Appropriations:

(a)	Contractual services		3,500.0		3,500.0
(b)	Other	16,282.8			16,282.8
(c)	Other financing uses		34,268.3		34,268.3



Subtotal 127,031.5

**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	231.1	39.5		270.6
(b)	Contractual services	7.6	1,990.3		1,997.9
(c)	Other	23.2		23.2	
	Subtotal				2,291.7

**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	2,352.0		630.1	2,982.1
(b)	Contractual services	539.0		414.0	953.0
(c)	Other	347.9	39.7	317.6	705.2
	Subtotal				4,640.3

**CHILDREN, YOUTH AND FAMILIES DEPARTMENT:**

(1) Juvenile justice facilities:

The purpose of the juvenile justice facilities program is to provide rehabilitative services to youth committed to the department, including medical, educational, mental health and other services that will support their rehabilitation.

Appropriations:

(a)	Personal services and					
	employee benefits	54,487.5	1,490.5	40.0	56,018.0	
(b)	Contractual services	9,970.3	423.9	327.6	10,721.8	
(c)	Other	6,264.1	26.0	32.4	6,322.5	

Performance measures:

- (a) Outcome: Percent of clients who successfully complete formal probation 80%
- (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 8%
- (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 10%
- (e) Output: Number of physical assaults in juvenile justice facilities <255

(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	46,461.6	464.3	9,980.0	56,905.9	
(b)	Contractual services	13,884.1	907.4	979.4	9,254.5	25,025.4
(c)	Other	27,201.3	1,960.2	732.2	35,603.9	65,497.6

The internal service funds/interagency transfers appropriations to the protective services program of the children, youth and families department include nine hundred thousand dollars (\$900,000) from the federal temporary assistance for needy families block grant to New Mexico for supportive housing.

Performance measures:

- (a) Outcome: Percent of adult victims or survivors receiving domestic violence services who have an individualized safety plan 95%
- (b) Output: Turnover rate for protective service workers 15%
- (c) Outcome: Percent of children who are not the subject of substantiated maltreatment within six months of a prior determination of substantiated maltreatment 93%

(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	4,313.7		4,788.4	9,102.1	
(b)	Contractual services	23,622.2		24,958.3	11,628.5	
		60,209.0				
(c)	Other	30,935.9	500.0	30,874.6	80,059.8	142,370.3

The internal service funds/interagency transfers appropriations to the early childhood services program of the children, youth and families department include forty-nine million six hundred twenty-seven thousand five hundred dollars (\$49,627,500) from the federal temporary assistance for needy families block grant, including thirty million five hundred twenty-seven thousand five hundred dollars (\$30,527,500) for childcare, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and five million dollars (\$5,000,000) for home visiting.

The general fund appropriation to the early childhood services program of the children, youth and families department in the contractual services category includes an additional fifty thousand dollars (\$50,000) for provider education programs, two hundred fifty thousand dollars (\$250,000) for early prekindergarten programs and four hundred thousand dollars (\$400,000) for home visiting programs.

Performance measures:

- (a) Outcome: Percent of children in state-funded prekindergarten showing measurable progress on the preschool readiness kindergarten tool 93%
- (b) Outcome: Percent of parents who demonstrate progress in practicing

positive parent-child interactions 30%

(c) Outcome: Percent of children receiving state subsidy in focus, level  
four 6%

(d) Outcome: Percent of children receiving state subsidy in focus, level  
five 14.5%

(4) Program support:

The purpose of program support is to provide the direct services divisions with functional and administrative support so they may provide client services consistent with the department's mission and also support the development and professionalism of employees.

Appropriations:

(a)	Personal services and employee benefits	8,716.9	4,015.4	12,732.3	
(b)	Contractual services	1,468.3	71.5	284.7	1,824.5
(c)	Other	3,202.4	1,697.0	4,899.4	

Any unexpended balances in the protective services program, early childhood services program and the juvenile justice facilities program of the children, youth and families department remaining at the end of fiscal year 2017 from appropriations made from the general fund shall not revert and are appropriated for expenditure in fiscal year 2018.

Performance measures:

(a) Outcome: Percent of contractors that receive an onsite financial  
visit 10%

(5) Behavioral health services:

Appropriations:

(a)	Personal services and employee benefits	2,069.4	285.3	2,354.7	
(b)	Contractual services	11,853.9	426.3	1,960.5	14,240.7
(c)	Other	512.0	180.2	692.2	

Performance measures:

(a) Quality: Percent of youth receiving community-based and juvenile detention center behavioral health services who perceive that they are doing better in school or work because of the behavioral health services they have received 75%

Subtotal 468,916.4

TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	1,664,105.0	347,962.2	329,244.1
	6,004,651.5	8,345,962.8	

SERVICES

**G. PUBLIC SAFETY**

**DEPARTMENT OF MILITARY AFFAIRS:**

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard in maintaining a high degree of readiness to respond to state and federal missions and to supply an experienced force to protect the public, provide direction for youth and improve the quality of life for New Mexicans.

Appropriations:

(a) Personal services and employee benefits	3,398.3	5,568.8	8,967.1
(b) Contractual services	472.8	3,218.7	3,691.5
(c) Other	3,209.3	44.8	147.4
		6,189.7	9,591.2

Performance measures:

(a) Outcome: Percent of strength of the New Mexico national guard 95%

(b) Output: Number of New Mexico youth challenge academy cadets who earn their high school equivalency annually 98

Subtotal 22,249.8

**PAROLE BOARD:**

(1) Adult parole:

The purpose of the adult parole program is to provide and establish parole conditions and guidelines for inmates and parolees so they may reintegrate back into the community as law-abiding citizens.

Appropriations:

(a)	Personal services and			
	employee benefits	331.4		331.4
(b)	Contractual services	7.5		7.5
(c)	Other	165.0	165.0	

Performance measures:

(a) Efficiency:	Percent of revocation hearings held within thirty days of a		
	parolee's return to the corrections department	95%	
Subtotal			503.9

**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 a low risk for reoffending or re-victimizing the community.

Appropriations:

(a)	Contractual services	4.9		4.9
(b)	Other	9.5	9.5	
Subtotal				14.4

**CORRECTIONS DEPARTMENT:**

(1) Inmate management and control:

The purpose of the inmate management and control program is to incarcerate in a humane, professionally sound manner offenders sentenced to prison and to provide safe and secure prison operations. This includes quality hiring and in-service training of correctional officers, protecting the public from escape risks and protecting prison staff, contractors and inmates from violence exposure to the extent possible within budgetary resources.

Appropriations:

(a)	Personal services and				
	employee benefits	97,122.7	12,426.0	150.2	109,698.9
(b)	Contractual services	48,285.7			48,285.7

(c)	Other	109,888.5	950.5	109.0	110,948.0
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The general fund appropriation to the inmate management and control program of the New Mexico corrections department in the personal services and employee benefits category includes four million five hundred thousand dollars (\$4,500,000) to implement an occupationally based salary structure that brings custody staff salaries to the minimum of the pay bands and to provide targeted salary increases to custody staff for the purpose of reducing compaction and improving employee recruitment and retention in accordance with a plan approved by the state personnel board and the department of finance and administration.

Performance measures:

(a) Output: Percent of eligible inmates who earn a general educational development certificate 75%

(b) Outcome: Percent of prisoners reincarcerated into the corrections department system within thirty-six months due to new charges or pending charges 20%

(c) Outcome: Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release 10%

(d) Output: Number of inmate-on-inmate assaults with serious injury 10

(e) Output: Number of inmate-on-staff assaults with serious injury 4

(f) Outcome: Percent of release-eligible female inmates still incarcerated past their scheduled release date 10%

(g) Outcome: Thirty-six month recidivism rate 45%

(2) Corrections industries:

The purpose of the corrections industries program is to provide training and work experience opportunities for inmates to instill a quality work ethic and to prepare them to perform effectively in an employment position and to reduce idle time of inmates while in prison.

Appropriations:

(a)	Personal services and employee benefits	1,569.0	1,569.0
(b)	Contractual services	735.9	735.9
(c)	Other	9,557.6	9,557.6

(3) Community offender management:

The purpose of the community offender management program is to provide programming and supervision to offenders on probation and parole, with emphasis on high-risk offenders, to better ensure the probability of them becoming law-abiding citizens, to protect the public from undue risk and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration.

Appropriations:

(a)	Personal services and			
	employee benefits	17,997.7	1,424.8	19,422.5
(b)	Contractual services	5,909.5	647.3	6,556.8
(c)	Other	6,126.4	1,275.2	7,401.6

The other state funds appropriations to the community offender management program of the corrections department include [an additional] five hundred thousand dollars (\$500,000) from the probation and parole fund and two hundred thousand dollars (\$200,000) from the community corrections fund for transitional living services. *LINE-ITEM VETO*

Performance measures:

- (a) Outcome: Percent of out-of-office contacts per month with offenders on high and extreme supervision on standard caseloads 95%
- (b) Quality: Average standard caseload per probation and parole officer 95
- (c) Output: Percent of male offenders who graduate from the men's recovery center and are reincarcerated within thirty-six months 25%

(4) Program support:

The purpose of program support is to provide quality administrative support and oversight to the department operating units to ensure a clean audit, effective budget, quality personnel management and cost-effective management information system services.

Appropriations:

(a)	Personal services and			
	employee benefits	10,323.4	16.8	10,340.2
(b)	Contractual services	807.2	18.2	825.4



(c)	Other	1,688.1	426.6	256.1	2,370.8
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Performance measures:

(a) Outcome: Percent turnover of probation and parole officers 10%

(b) Outcome: Percent turnover of correctional officers in public facilities 10%

Subtotal					327,712.4
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**CRIME VICTIMS REPARATION COMMISSION:**

(1) Victim compensation:

The purpose of the victim compensation program is to provide financial assistance and information to victims of violent crime in New Mexico so they can receive services to restore their lives.

Appropriations:

(a)	Personal services and				
	employee benefits	1,013.5			1,013.5
(b)	Contractual services	210.5			210.5
(c)	Other	1,245.6	987.2		2,232.8

Performance measures:

(a) Efficiency: Average number of days to process applications <90

(b) Outcome: Percent of victims receiving direct advocacy 90%

(2) Federal grant administration:

The purpose of the federal grant administration program is to provide funding and training to nonprofit providers and public agencies so they can provide services to victims of crime.

Appropriations:

(a)	Personal services and				
	employee benefits			332.5	332.5
(b)	Contractual services			97.8	97.8
(c)	Other		9,741.6		9,741.6

Performance measures:

(a) Efficiency: Percent of subgrantees who receive compliance monitoring  
via desk audits 90%

(b) Efficiency: Percent of site visits conducted 40%

Subtotal 13,628.7

**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	79,843.0	500.0	4,851.1	5,937.8	91,131.9
(b)	Contractual services	1,319.3	5.0	1,045.0	1,408.5	3,777.8
(c)	Other	22,071.6	1,292.5	1,086.8	1,677.7	26,128.6

The internal service funds/interagency transfers appropriations to the law enforcement program of the department of public safety include one million two hundred sixty-five thousand six hundred dollars (\$1,265,600) from the weight distance tax identification permit fund. Any unexpended balances in the law enforcement program of the department of public safety remaining at the end of fiscal year 2017 from the appropriations made from the weight distance tax identification permit fund shall revert to the weight distance tax identification permit fund.

The general fund appropriation to the law enforcement program of the department of public safety in the personal services and employee benefits category includes one million two hundred fifty thousand dollars (\$1,250,000) to increase salaries for department of public safety officers.

Performance measures:

(a) Output: Number of criminal investigations conducted by agents  
assigned to criminal investigative and impact positions in  
the investigations bureau 20

(b) Output: Number of drug-related investigations conducted per agent  
assigned to narcotics investigative positions in the  
investigations bureau 20

(c) Output: Number of commercial motor vehicle citations issued per filled full-time-equivalent position assigned to enforcement duties 522

(d) Output: Number of commercial motor vehicle safety inspections conducted per filled full-time-equivalent position assigned to inspection duties 430

(2) Statewide law enforcement support program:

The purpose of the statewide law enforcement support program is to promote a safe and secure environment for the state of New Mexico through intelligently led policing practices, vital scientific and technical support, current and relevant training and innovative leadership for the law enforcement community.

Appropriations:

(a)	Personal services and employee benefits	8,508.3	1,289.5	580.7	646.8	11,025.3
(b)	Contractual services	1,036.9	432.5	961.1	20.0	2,450.5
(c)	Other	2,864.5	671.5	2,678.2	115.4	6,329.6

Performance measures:

(a) Outcome: Percent of forensic biology and DNA cases completed per filled full-time-equivalent position within sixty working days 40%

(b) Outcome: Percent of forensic latent fingerprint cases completed per filled full-time-equivalent position within sixty working days 30%

(c) Outcome: Percent of forensic firearm or toolmark cases completed per filled full-time-equivalent position within sixty working days 50%

(d) Outcome: Percent of forensic chemistry cases completed per filled

full-time-equivalent position within sixty working days 40%

(3) Program support:

The purpose of program support is to manage the agency's financial resources, assist in attracting and retaining a quality workforce and provide sound legal advice and a clean, pleasant working environment.

Appropriations:

(a)	Personal services and				
	employee benefits	3,825.3	45.9	52.5	486.4
					4,410.1
(b)	Contractual services	120.3		5.0	125.3
(c)	Other	1,039.2	350.0	356.7	3,007.4
					4,753.3
	Subtotal				150,132.4

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:**

(1) Homeland security and emergency management program:

The purpose of the homeland security and emergency management program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

(a)	Personal services and				
	employee benefits	699.8	88.4		4,476.8
					5,265.0
(b)	Contractual services	181.4			1,626.0
					1,807.4
(c)	Other	1,868.8	21.6	150.8	8,737.2
					10,778.4

Performance measures:

(a) Output:	Percent completion of semi-annual monitoring of disaster
	grant applications
	75%

Subtotal 17,850.8

TOTAL PUBLIC SAFETY 431,595.9 34,776.8 12,430.6 53,289.1  
532,092.4

**H. TRANSPORTATION**

## DEPARTMENT OF TRANSPORTATION:

### (1) Project design and construction:

The purpose of the project design and construction program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

#### Appropriations:

(a)	Personal services and employee benefits	22,229.9	3,499.4	25,729.3
(b)	Contractual services	69,991.6	246,923.7	316,915.3
(c)	Other	63,653.7	123,606.7	187,260.4

Notwithstanding the provisions of Article 21 of Chapter 6 NMSA 1978, any funds received by the New Mexico finance authority from the department of transportation in fiscal year 2017 as an annual administrative fee for issuing state transportation bonds pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978, shall not be deposited into the local transportation infrastructure fund.

The other state funds appropriations to the project design and construction program of the department of transportation include ten million dollars (\$10,000,000) for maintenance, reconstruction and related construction costs of state-managed highways.

#### Performance measures:

- (a) Outcome: Percent of projects in production let as scheduled >70%
- (b) Quality: Percent of final cost-over-bid amount (less gross receipts tax) on highway construction projects <3%
- (c) Outcome: Percent of bridges in fair condition or better, based on deck area >90%
- (d) Outcome: Percent of projects completed according to schedule >85%

### (2) Highway operations:

The purpose of the highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

#### Appropriations:

(a)	Personal services and employee benefits	101,510.1	3,000.0	104,510.1
(b)	Contractual services	47,522.6		47,522.6
(c)	Other	81,762.2	81,762.2	

Performance measures:

- (a) Output: Number of statewide pavement preservation lane miles >2,750
- (b) Outcome: Percent of non-interstate lane miles rated good >68%
- (c) Outcome: Number of combined systemwide miles in deficient condition <6,000

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and management of construction and maintenance projects.

Appropriations:

(a)	Personal services and employee benefits	24,757.5		24,757.5
(b)	Contractual services	4,472.8	4,472.8	
(c)	Other	12,941.6	12,941.6	

Performance measures:

- (a) Quality: Number of external audit findings <5
- (b) Outcome: Vacancy rate in all programs <11%
- (c) Output: Number of employee injuries <90

(4) Modal:

The purpose of the modal program is to provide federal grants management and oversight of programs with dedicated revenues including transit and rail, traffic safety and aviation.

Appropriations:

(a)	Personal services and employee benefits	2,408.2	1,249.4	3,657.6
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(b)	Contractual services	18,307.9	5,755.0	24,062.9
(c)	Other	9,075.1	24,885.6	33,960.7

Performance measures:

(a) Explanatory: Annual number of riders on park and ride >310,000

(b) Outcome: Percent of airport runways in satisfactory or better condition >53%

(c) Explanatory: Annual number of riders on the rail runner, in millions 1.1

(d) Outcome: Number of traffic fatalities <330

(e) Outcome: Number of alcohol-related traffic fatalities <130

Subtotal 867,553.0

TOTAL TRANSPORTATION 458,633.2 408,919.8 867,553.0

## I. OTHER EDUCATION

### PUBLIC EDUCATION DEPARTMENT:

The purpose of the public education department is to provide a public education to all students. The secretary of public education is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged. To do this, the department is focusing on leadership and support, productivity, building capacity, accountability, communication and fiscal responsibility.

Appropriations:

(a)	Personal services and employee benefits	9,693.6	2,812.0	36.0	6,951.1	19,492.7
(b)	Contractual services	1,173.3	806.0		18,331.9	20,311.2
(c)	Other	842.4	482.1	2,792.1	4,116.6	

Performance measures:

(a) Explanatory: Number of eligible children served in state-funded prekindergarten TBD

(b) Outcome: Average number of days to process a request for proposals,

from date of receipt 60

(c) Output: Number of local education agencies audited for funding  
formula components and program compliance annually 20

Subtotal 43,920.5

### REGIONAL EDUCATION COOPERATIVES:

Appropriations:

(a)	Northwest:	3,911.5		3,911.5
(b)	Northeast:	1,997.0	58.4	2,055.4
(c)	Lea county:	686.1	533.2	1,219.3
(d)	Pecos valley:	500.0	275.0	775.0
(e)	Southwest:	483.0	600.0	1,083.0
(f)	Central:	4,147.0	1,082.0	5,229.0
(g)	High plains:	3,182.0	300.0	3,482.0
(h)	Clovis:	308.6	520.1	828.7
(i)	Ruidoso:	1,789.9	129.6	1,919.5
	Subtotal			20,503.4

### PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS

Appropriations:

(a)	Teachers pursuing excellence	1,000.0		1,000.0
(b)	Breakfast for elementary students	1,924.6		1,924.6
(c)	After-school and summer enrichment programs	350.0		350.0
(d)	Regional education			



	cooperatives operations	935.6		935.6
(e)	Public pre-kindergarten			
	fund	21,000.0	3,500.0	24,500.0
(f)	Graduation, reality and			
	dual-role skills program	200.0		200.0
(g)	New Mexico cyber academy		250.0	250.0
(h)	Advanced placement	875.0		875.0
(i)	New Mexico grown fresh			
	fruits and vegetables	250.0		250.0
(j)	K-3 plus fund	23,700.0		23,700.0
(k)	Early reading initiative	15,000.0		15,000.0
(l)	Teaching support for			
	low-income students	500.0		500.0
(m)	Science, technology,			
	engineering and math			
	initiative	2,400.0		2,400.0
(n)	Teacher and school leader			
	preparation	4,145.5		4,145.5
(o)	Teacher and administrator			
	evaluation system	4,600.0		4,600.0
(p)	Parent portal	1,100.0		1,100.0
(q)	Teacher and school leader			
	programs and supports for			
	training, preparation,			
	recruitment and retention	6,000.0		6,000.0

(r)	College preparation, career readiness and dropout prevention	2,901.0	2,901.0
(s)	Interventions and support for students, struggling schools and parents	10,500.0	10,500.0
(t)	Stipends for teachers in hard-to-staff areas	1,500.0	1,500.0

A school district or charter school receiving an allocation from the breakfast for elementary students appropriation shall not be prohibited from beginning breakfast service before the start of the instructional day provided that the school also serves breakfast after the beginning of the instructional day in the location of its choice, including the cafeteria or classroom, or by providing a hand-carried breakfast.

The internal service funds/interagency transfers appropriation to the public pre-kindergarten fund of the public education department is from the federal temporary assistance for needy families block grant.

Notwithstanding the provisions of Article 23 of Chapter 32A NMSA 1978, the appropriations to the public pre-kindergarten fund of the public education department include sufficient funding to continue the established extended-day prekindergarten pilot program during the 2016-2017 school year.

Notwithstanding the provisions of Section 22-13-28.1 NMSA 1978, the general fund appropriation to the k-3 plus fund of the public education department includes funds to pilot k-3 plus in fourth and fifth grades in schools that voluntarily implement a schoolwide program that extends the school year by a minimum of twenty-five additional days for all students in all grades.

In setting the reimbursement amount for the summer 2016 k-3 plus program, the secretary of public education shall use the final unit value for the 2015-2016 school year as the basis for funding June, July and August 2016 k-3 plus programs.

The general fund appropriation to the public education department for teaching support for low-income students is for a nonprofit organization ~~[that recruits recent college graduates and professionals who have demonstrated a record of achievement to teach in low-income urban and rural public schools]~~ to provide teaching support in schools with at least sixty percent of the enrolled students eligible for free or reduced-fee lunch, with a priority for schools with eighty-five percent or more of the enrolled students eligible for free or reduced-fee lunch. *LINE-ITEM VETO*

The general fund appropriation to the public education department for teacher and school leader preparation includes one million dollars (\$1,000,000) to be allocated to two or more New Mexico universities for a collaborative school principal ~~[turnaround]~~ leadership program involving one or more colleges of education and one or more business colleges. *LINE-ITEM VETO*

Except for money in the appropriations for college preparation, career readiness and dropout prevention, interventions and supports for students, struggling schools and parents and stipends for teachers in hard-to-staff areas that is for use by the public education department to provide services or

support, the appropriations are contingent on the appropriations being distributed by the department to school districts and charter schools based on proposals submitted by school districts and charter schools and approved by the department.

The appropriation for teacher and school leader programs and supports for training, preparation, recruitment and retention is contingent on the public education department using the appropriation for the following: (1) teacher and school leader preparation programs; and (2) supports for teacher and school administrator training, preparation, recruitment and retention. School districts with established collective bargaining units may use the appropriation in any compensation initiative implemented by the department, subject to collective bargaining. School districts that do not have established collective bargaining units shall not be required to collectively bargain to participate in any compensation initiative implemented by the department with this appropriation. Awards made for any individual initiative pursuant to this appropriation shall not exceed seventy-five percent of the total appropriations.

Any unexpended balances in the special appropriations to the public education department remaining at the end of fiscal year 2017 from appropriations made from the general fund shall revert to the general fund.

Subtotal	102,631.7
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**PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities authority is to oversee public school facilities in all eighty-nine school districts ensuring correct and prudent planning, building and maintenance using state funds and ensuring adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:

(a)	Personal services and		
	employee benefits	4,689.1	4,689.1
(b)	Contractual services	161.2	161.2
(c)	Other	1,189.4	1,189.4

Performance measures:

- (a) Outcome: Percent of projects meeting all contingencies completed  
                   within the specified period of awards      95%
- (b) Explanatory: Average cost per square foot of new construction      \$288
- (c) Explanatory: Statewide public school facility maintenance assessment  
                   report score measured at December 31 of prior calendar year      70.1%
- (d) Explanatory: Statewide public school facility condition index measured  
                   at December 31 of prior calendar year      35%

Subtotal				6,039.7	
TOTAL OTHER EDUCATION	110,841.0	27,144.9	3,536.0	31,573.4	173,095.3

## 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 whose other state funds exceed amounts specified in this section, with the exception of the policy development and institutional financial oversight program of the higher education department. ~~[In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.]~~ *LINE-ITEM VETO*

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2017 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	2,635.9	248.9	1,105.0	3,989.8
(b)	Contractual services	1,014.0	265.5	1,520.4	2,799.9
(c)	Other	8,734.2	84.4	320.6	7,931.8
					17,071.0

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes five million five hundred forty thousand six hundred dollars (\$5,540,600) to provide adults with education services and materials and access to high school equivalency tests, one hundred forty-six thousand four hundred dollars (\$146,400) for workforce development programs at community colleges that primarily educate and retrain recently displaced workers, four hundred eighty-seven thousand nine hundred dollars (\$487,900) for the high skills program, one hundred ninety-four thousand six hundred dollars (\$194,600) to the tribal college dual credit program fund and ninety-eight thousand dollars (\$98,000) to continue an English language learner teacher preparation program.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the contractual services category includes seven hundred thirty-six thousand six hundred dollars (\$736,600) for an adult literacy program.

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department at the end of fiscal year 2017 from appropriations made from the general fund shall revert to the general fund.

Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978, the other state funds appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes fifty thousand dollars (\$50,000) to the tribal college dual credit program fund from the Indian education fund.

Performance measures:

- (a) Outcome: Number of students receiving a baccalaureate degree from a  
New Mexico public postsecondary institution 8,000

(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) | Other | 24,236.0 | 18,449.4 | 44,000.0 | 50.0 | 86,735.4 |
|-----|-------|----------|----------|----------|------|----------|

Performance measures:

- (a) Outcome: Percent of first-time freshman lottery recipients graduated  
from college after the ninth semester 75%

Subtotal						110,596.1
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**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        | 186,759.6 | 196,291.0 |           | 3,589.0 | 386,639.6 |
| (b) | Other                                   | 167,160.0 |           | 142,498.0 |         | 309,658.0 |
| (c) | Athletics                               | 2,782.9   | 30,791.0  |           | 31.0    | 33,604.9  |
| (d) | Educational television and public radio | 1,148.6   | 7,365.0   |           |         | 8,513.6   |

~~[Notwithstanding the provisions of Article 23A of Chapter 22 NMSA 1978, the other state funds appropriation to the university of New Mexico in the instruction and general purposes category includes one hundred thousand dollars (\$100,000) for the planning, design and program development of a master's degree and outreach program, including online courses, in Native American studies from the Indian education fund.] LINE-ITEM VETO~~

Performance measures:

- (a) Outcome: Percent of first-time, full-time, degree-seeking freshmen completing an academic program within six years 48%
- (b) Output: Number of baccalaureate degrees awarded 3,700

(2) Gallup branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

- (a) Instruction and general purposes 9,017.6 6,466.0 835.0 16,318.6
- (b) Nurse expansion 204.2 204.2
- (c) Other 1,943.0 652.0 2,595.0

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 10%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 84%

(3) Los Alamos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they

have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	1,828.1	1,809.0	491.0	4,128.1
(b)	Other	636.0		636.0	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 57%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 80%

(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	5,457.5	4,970.0	1,725.0	12,152.5
(b)	Other	1,921.0	649.0	2,570.0	
(c)	Nurse expansion	165.7			165.7

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time

to completion 9.5%

(b) Outcome: Percent of first-time, full-time, degree-seeking students

enrolled in a given fall term who persist to the following

spring term 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 3,469.9 3,397.0 644.0 7,510.9

(b) Other 1,246.0 1,683.0 2,929.0

(c) Nurse expansion 238.0 238.0

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or

certificate-seeking community college students who complete

the program within one hundred fifty percent of normal time

to completion 14%

(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%

(6) Research and public service projects:

Appropriations:

(a) Judicial selection 22.4 22.4

(b) Southwest research center 1,109.4 1,109.4

(c) Substance abuse program 72.4 72.4



(d)	Resource geographic information system	64.7	64.7
(e)	Southwest Indian law clinic	202.6	202.6
(f)	Geospatial and population studies/bureau of business and economic research	375.3	375.3
(g)	New Mexico historical review	46.8	46.8
(h)	Ibero-American education	88.4	88.4
(i)	Manufacturing engineering program	548.2	548.2
(j)	Wildlife law education	94.0	94.0
(k)	Morrissey hall programs	46.4	46.4
(l)	Disabled student services	187.2	187.2
(m)	Minority student services	945.8	945.8
(n)	Community-based education	554.8	554.8
(o)	Corrine Wolfe children's law center	167.7	167.7
(p)	Utton transboundary resources center	337.9	337.9
(q)	Student mentoring program	285.2	285.2
(r)	Land grant studies	128.6	128.6
(s)	College degree mapping	73.2	73.2

(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	60,816.4	52,800.0	4,000.0	117,616.4
(b)	Other	305,000.0	65,000.0	370,000.0	

The other state funds appropriations to the health sciences center of the university of New Mexico include two million eight hundred fifty-nine thousand one hundred dollars (\$2,859,100) from the tobacco settlement program fund.

(8) Health sciences center research and public service projects:

Appropriations:

(a)	Office of medical				
	investigator	5,005.0	3,000.0	2.2	8,007.2
(b)	Native American health				
	center	268.0		268.0	
(c)	Native American suicide				
	prevention	97.3		97.3	
(d)	Children's psychiatric				
	hospital	7,115.6	10,700.0		17,815.6
(e)	Carrie Tingley hospital	5,198.1	13,400.0		18,598.1
(f)	Newborn intensive care	3,268.8	2,100.0		5,368.8
(g)	Pediatric oncology	1,271.8	300.0		1,571.8
(h)	Pediatric specialty				
	education		300.0		300.0
(i)	Internal medicine				
	residencies	1,042.5			1,042.5
(j)	Poison and drug				
	information center	1,548.4	600.0	96.3	2,244.7
(k)	Cancer center	2,625.8	5,300.0	13,200.0	21,125.8

(l)	Genomics, biocomputing and environmental health research	1,300.0	5,500.0	6,800.0
(m)	Trauma specialty education		300.0	300.0
(n)	Hepatitis community health outcomes	2,091.7		2,091.7
(o)	Nurse expansion	1,076.4		1,076.4
(p)	Graduate nurse education		1,610.5	1,610.5
(q)	Psychiatry residencies	393.6		393.6
(r)	General surgery/family community medicine residencies	327.3		327.3

The general fund appropriations to the health sciences center research and public service projects of the university of New Mexico and the instruction and general purposes category of the health sciences center of the university of New Mexico include sufficient funds to implement a program to provide educational materials, including shaken baby simulation dolls, to hospitals and birthing centers in the state to educate parents of newborns to prevent shaken baby syndrome.

The general fund appropriation to the health sciences center research and public service projects of the university of New Mexico for pediatric oncology includes sufficient funds for an oncology summer camp for children ages seven through seventeen who have been diagnosed with cancer.

Subtotal			1,369,870.8	
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## NEW MEXICO STATE UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	116,361.8	108,700.0	3,700.0	228,761.8
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(b)	Other	76,200.0	97,800.0	174,000.0
(c)	Athletics	3,314.8	10,400.0	13,714.8
(d)	Educational television			
	and public radio	1,070.4	1,000.0	2,070.4

Performance measures:

- (a) Outcome: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 47%
- (b) Output: Total number of baccalaureate degrees awarded 2,650

(2) Alamogordo branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	7,559.0	4,600.0	1,700.0	13,859.0
(b)	Other	700.0	3,600.0	4,300.0	

Performance measures:

- (a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 14%
- (b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 79.8%

(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	4,120.3	8,800.0	600.0	13,520.3
(b)	Other	600.0	1,500.0	2,100.0	
(c)	Carlsbad manufacturing sector development program		230.3		230.3
(d)	Nurse expansion	115.8			115.8

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 10%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 70%

(4) Dona Ana branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	22,762.5	15,300.0	1,200.0	39,262.5
(b)	Other	3,400.0	16,500.0	19,900.0	
(c)	Dental hygiene program	219.0			219.0
(d)	Nurse expansion	205.7			205.7

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 15%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 81%

(5) Grants branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	3,557.7	1,500.0	1,200.0	6,257.7
(b)	Other	400.0		1,700.0	2,100.0

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 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 73%

(6) Department of agriculture:

Appropriations:	11,649.6	4,900.0	1,700.0	18,249.6
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The general fund appropriation to the New Mexico department of agriculture of the New Mexico state university includes three hundred ninety thousand three hundred dollars (\$390,300) for supplemental nutrition assistance program participants to buy fresh fruits and vegetables at New Mexico farmers' markets through a statewide program.

(7) Agricultural experiment station:

Appropriations:	14,366.8	4,800.0	12,000.0	31,166.8
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(8) Cooperative extension service:

Appropriations:	13,281.7	5,100.0	9,000.0	27,381.7
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(9) Research and public service projects:

Appropriations:

- (a) Science, technology,  
engineering and  
mathematics alliance for  
minority participation    321.5                      600.0    921.5
- (b) Mental health nurse  
practitioner    684.7                      684.7
- (c) Water resource research  
institute 604.2    600.0                      900.0    2,104.2
- (d) Indian resources development    291.8    291.8
- (e) Manufacturing sector  
development program    537.9    537.9
- (f) Arrowhead center for  
business development    329.9    300.0                      600.0    1,229.9
- (g) Nurse expansion                      744.5    744.5
- (h) Economic development  
doctorate                      97.3    97.3
- (i) Space consortium and

	outreach program		800.0	800.0
(j)	Alliance teaching and learning advancement	147.4		147.4
(k)	College assistance migrant program	212.5	500.0	712.5
(l)	Clean drinking water technology	50.3	50.3	
	Subtotal		605,737.4	

## NEW MEXICO HIGHLANDS UNIVERSITY:

### (1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

#### Appropriations:

(a)	Instruction and general purposes	27,684.0	13,000.0	400.0	41,084.0
(b)	Other	13,500.0	9,500.0	23,000.0	
(c)	Athletics	2,093.2	500.0	2,593.2	

#### 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 430

### (2) Research and public service projects:

#### Appropriations:

(a)	Advanced placement	225.1		225.1
(b)	Minority student services	546.9		546.9



(c)	Forest and watershed			
	institute	308.1		308.1
(d)	Nurse expansion	64.3		64.3
	Subtotal			67,821.6

**WESTERN NEW MEXICO UNIVERSITY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general				
	purposes	16,965.9	13,800.0	200.0	30,965.9
(b)	Other	6,600.0	7,000.0	13,600.0	
(c)	Athletics	1,852.3	500.0	2,352.3	

Performance measures:

- (a) Output: Total number of baccalaureate degrees awarded 215
- (b) Output: Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years 25%

(2) Research and public service projects:

Appropriations:

(a)	Instructional television	77.1		77.1
(b)	Pharmacy and phlebotomy			
	programs	60.8		60.8
(c)	Web-based teacher licensure	137.5		137.5
(d)	Child development center	205.9		205.9
(e)	Nurse expansion	860.4		860.4

Subtotal

48,259.9

**EASTERN NEW MEXICO UNIVERSITY:**

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	27,163.9	17,900.0	3,100.0	48,163.9
(b)	Other	12,500.0	25,800.0	38,300.0	
(c)	Athletics	2,091.9	1,800.0	3,891.9	
(d)	Educational television and public radio	1,085.6	3,000.0	1,500.0	5,585.6

Performance measures:

(a) Output:	Number of baccalaureate degrees awarded	700
(b) Output:	Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years	32%

(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	11,722.0	6,500.0	700.0	18,922.0
(b)	Other	3,700.0	8,500.0	12,200.0	
(c)	Airframe mechanics	58.8		58.8	
(d)	Nurse expansion	72.8		72.8	

(e) Special services program  
 expansion 60.2 60.2

Performance measures:

(a) Outcome: Percent of students who complete a program within one  
 hundred fifty percent of time 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 76.2%

(3) Ruidoso branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general  
 purposes 2,064.9 2,000.0 1,000.0 5,064.9  
 (b) Other 500.0 1,800.0 2,300.0

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or  
 certificate-seeking community college students who complete  
 the program within one hundred fifty percent of normal time  
 to completion 20%

(b) Outcome: Percent of first-time, full-time, degree-seeking students  
 enrolled in a given fall term who persist to the following  
 spring term 65%

(4) Research and public service projects:

Appropriations:

(a)	Blackwater draw site and museum	93.4	93.4
(b)	Student success programs	443.5	443.5
(c)	Nurse expansion	348.8	348.8
(d)	At-risk student tutoring	238.8	238.8
(e)	Allied health	151.5	151.5
	Subtotal		135,896.1

## NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:

### (1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the work force, compete and advance in the new economy and contribute to social advancement through informed citizenship.

#### Appropriations:

(a)	Instruction and general purposes	27,118.7	22,300.0	49,418.7
(b)	Other	17,000.0	18,500.0	35,500.0
(c)	Athletics	204.0	204.0	

#### Performance measures:

(a) Output:	Percent of full-time, degree-seeking, first-time freshmen completing an academic program within six years	48%
(b) Output:	Number of degrees awarded	325

### (2) Bureau of mine safety:

Appropriations:	331.8	331.8
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### (3) Bureau of geology and mineral resources:

Appropriations:	4,134.7	500.0	400.0	5,034.7
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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: 1,957.7 1,300.0 3,600.0 6,857.7

(5) Geophysical research center:

Appropriations: 1,141.2 2,400.0 7,000.0 10,541.2

(6) Research and public service projects:

Appropriations:

(a)	Energetic materials research center	830.2	6,500.0	37,800.0	45,130.2
(b)	Science and engineering fair			209.3	209.3
(c)	Institute for complex additive systems analysis			841.9 100.0	2,300.0 3,241.9
(d)	Cave and karst research			377.9	377.9
(e)	Homeland security center			546.0	546.0
(f)	Aerospace internship program			73.2	73.2
	Subtotal				157,466.6

**NORTHERN NEW MEXICO COLLEGE:**

Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a)	Instruction and general purposes	10,409.0	5,000.0	4,200.0	19,609.0
(b)	Other	2,900.0	4,700.0		7,600.0

(c)	Athletics	262.2	200.0	462.2
(d)	Nurse expansion		247.7	247.7
(e)	Science, technology, engineering and math	146.0		146.0
(f)	Veterans center	121.7		121.7

Performance measures:

(a) Output:	Percent of first-time, full-time freshmen completing an academic program within six years	25%
(b) Output:	Total number of baccalaureate degrees awarded	70
Subtotal		28,186.6

**SANTA FE COMMUNITY COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	9,730.3	27,300.0	3,300.0	40,330.3
(b)	Other	5,800.0	13,800.0	19,600.0	
(c)	Automechanics	48.8		48.8	
(d)	Small business development centers	4,312.2		2,600.0	6,912.2
(e)	Nurse expansion	270.0		270.0	
(f)	Radiography technician program	97.6		97.6	

Performance measures:

(a) Outcome:	Percent of a cohort of full-time, first-time, degree- or
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certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 11%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 79%

Subtotal 67,258.9

**CENTRAL NEW MEXICO COMMUNITY COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	55,889.3	101,100.0	5,300.0	162,289.3
(b)	Other	9,500.0	54,500.0	64,000.0	
(c)	Nurse expansion	191.1		191.1	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 13%

(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 226,480.4

**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	7,235.5	3,300.0	1,100.0	11,635.5
(b)	Other	1,700.0		2,400.0	4,100.0
(c)	Athletics	406.6			406.6
(d)	Nurse expansion		283.9		283.9
(e)	Student retention and completion	564.2			564.2

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 20%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 70%

Subtotal 16,990.2

**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	4,150.3	1,100.0	1,000.0	6,250.3
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(b)	Other	600.0	700.0	1,300.0
(c)	Athletics	146.4		146.4
(d)	Wind training center	120.1		120.1

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 40%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following spring term 70%

Subtotal 7,816.8

**NEW MEXICO JUNIOR COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	5,480.5	28,500.0	800.0	34,780.5
(b)	Other	3,100.0	5,400.0	8,500.0	
(c)	Athletics	471.7		471.7	
(d)	Oil and gas management program	171.9		171.9	
(e)	Nurse expansion	300.8		300.8	
(f)	Lea county distance education consortium	29.2		29.2	

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 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 82%

Subtotal 44,254.1

**SAN JUAN COLLEGE:**

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so that they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a)	Instruction and general purposes	24,088.9	32,200.0	2,000.0	58,288.9
(b)	Other	7,500.0	20,500.0	28,000.0	
(c)	Dental hygiene program	163.4			163.4
(d)	Nurse expansion	210.9			210.9

Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 15%

(b) Outcome: Percent of first-time, full-time, degree-seeking students enrolled in a given fall term who persist to the following

spring term 80%

Subtotal 86,663.2

### **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	9,696.9	5,500.0	1,200.0	16,396.9
(b)	Other	500.0		5,900.0	6,400.0
(c)	Nurse expansion		290.2		290.2

#### Performance measures:

(a) Outcome: Percent of a cohort of full-time, first-time, degree- or certificate-seeking community college students who complete the program within one hundred fifty percent of normal time to completion 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 75.5%

Subtotal 23,087.1

### **NEW MEXICO MILITARY INSTITUTE:**

The purpose of the New Mexico military institute is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

#### Appropriations:

(a)	Instruction and general				
	purposes	1,388.4	24,300.0	100.0	25,788.4

(b)	Other	8,500.0	900.0	9,400.0
(c)	Athletics	274.3	400.0	674.3
(d)	Knowles legislative scholarship program	1,359.1		1,359.1

Performance measures:

- (a) Outcome: American college testing composite scores for graduating high school seniors 22.5
- (b) Outcome: Collegiate assessment of academic proficiency reading scores for graduating college sophomores 60
- Subtotal 37,221.8

**NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:**

The purpose of the New Mexico school for the blind and visually impaired is to be an innovative leader and unifying entity in the field of educating blind and visually impaired students birth through high school by identifying and ensuring quality education through collaborative relationships with students, families and state, local and national partners to provide outstanding advocacy, training, resources and support services, thus ensuring all students who are blind or visually impaired will become independent, productive members of their communities.

Appropriations:

(a)	Instruction and general purposes	1,041.1	12,600.0	200.0	13,841.1
(b)	Early childhood center	382.9			382.9
(c)	Low vision clinic programs	117.5			117.5

The general fund appropriation to the New Mexico school for the blind and visually impaired in the instruction and general purposes category includes one hundred fifty thousand dollars (\$150,000) for aviation transportation services for students.

Performance measures:

- (a) Outcome: Number of school districts that have established a memorandum of understanding requesting mentorship support services for visually impaired professionals entering the

field 40

(b) Output: Number of New Mexico teachers who complete a personnel preparation program to become a teacher of the visually impaired 10

Subtotal 14,341.5

### NEW MEXICO SCHOOL FOR THE DEAF:

The purpose of the New Mexico school for the deaf is to provide a school-based comprehensive, fully accessible and language-rich learning environment for its students who are deaf and hard-of-hearing and to work collaboratively with families, agencies and communities throughout the state to meet the unique communication, language and learning needs of children and youth who are deaf and hard-of-hearing.

#### Appropriations:

(a) Instruction and general purposes 4,040.6 12,300.0 400.0 16,740.6

(b) Statewide outreach services 250.3 250.3

#### Performance measures:

(a) Outcome: Percent of students in kindergarten through twelfth grade demonstrating academic improvement across curriculum domains 85%

(b) Outcome: Rate of transition to postsecondary education, vocational-technical training schools, junior colleges, work training or employment for graduates based on a three-year rolling average 100%

(c) Outcome: Percent of students in grades three to twelve who are late language learners who demonstrate significant gains in language and communication as demonstrated by pre- and post-test results 80%

Subtotal 16,990.9

TOTAL HIGHER EDUCATION 828,473.5 1,525,243.2 44,320.6 666,902.7  
3,064,940.0

## 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 2017.

### 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: 2,518,992.4      5,000.0                      2,523,992.4

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 2016-2017 school year and then, on verification of the number of units statewide for fiscal year 2017 but no later than January 31, 2017, the secretary of public education may adjust the program unit value.

Notwithstanding the provisions of the School Personnel Act, the secretary of public education shall ensure that no full-time level one teacher receives a base salary less than thirty-four thousand dollars (\$34,000) during fiscal year 2017.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funds to increase the minimum salary of level two teachers from forty thousand dollars (\$40,000) to forty-two thousand dollars (\$42,000) and of level three teachers from fifty thousand dollars (\$50,000) to fifty-two thousand dollars (\$52,000). The secretary of public education shall ensure that no full-time level two teacher receives a base salary less than forty-two thousand dollars (\$42,000) and that no full-time level three teacher receives a base salary less than fifty-two thousand dollars (\$52,000) during fiscal year 2017.

~~[Contingent on enactment of Senate Bill 165 of the second session of the fifty-second legislature,]~~ the general fund appropriation to the state equalization guarantee distribution includes sufficient funding for school districts and charter schools to implement a new formula-based program in the 2016-2017 school year based on the use of current-year first reporting date membership in the calculation of program units for the new formula-based program. *LINE-ITEM VETO*

After considering those elementary physical education programs eligible for state financial support and the amount of state funding available for elementary physical education, the secretary of public education shall annually determine the programs and the consequent numbers of students in elementary physical education that will be used to calculate the number of elementary physical education program units.

Funds appropriated from the general fund to the state equalization guarantee distribution or any cash balances derived from appropriations from the general fund to the state equalization guarantee distribution in any year shall not be used to fund any litigation against the state unless or until a court issues a final decision in favor of a plaintiff school district or charter school and all legal remedies have been exhausted.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from federal Mineral Leasing Act receipts otherwise unappropriated.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978, that includes payments commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL874 funds".

The other state funds appropriation is from the balances received by the public education department pursuant to Section 66-5-44 NMSA 1978.

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2017 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 45%
- (b) Outcome: Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 45%
- (c) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading 51%
- (d) Outcome: Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics 43%
- (e) Outcome: Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and four-year schools <35%
- (f) Quality: Current four-year cohort graduation rate using shared accountability 75%

(2) Transportation distribution:

Appropriations:

- (a) [~~State-chartered charter~~] *LINE-ITEM VETO*  
school transportation

distribution	1,175.1	1,175.1
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(b) School ~~[district]~~ *LINE-ITEM VETO*

transportation

distribution	96,590.4	96,590.4
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~~[Notwithstanding the provisions of Sections 22-8-29.1 and 22-8-29.4 NMSA 1978, the appropriation to the school district transportation distribution shall only be allocated to school districts and the appropriation to the state-chartered charter school transportation distribution shall only be allocated to state-chartered charter schools. The public education department shall calculate an adjustment factor for school districts and shall calculate the distribution for school districts from the school district transportation distribution using the school district adjustment factor pursuant to the provisions of Sections 22-8-29.1 and 22-8-29.4 NMSA 1978. The public education department shall calculate an adjustment factor for state-chartered charter schools and shall calculate the distribution for state-chartered charter schools from the state-chartered charter school transportation distribution using the state-chartered charter school adjustment factor pursuant to the provisions of Sections 22-8-29.1 and 22-8-29.4 NMSA 1978. Rental fees for contractor-owned buses providing transportation services to a school district shall be paid out of the school district transportation distribution and rental fees for contractor-owned buses providing transportation services to a state-chartered charter school shall be paid out of the state-chartered charter school transportation distribution.] *LINE-ITEM VETO*~~

Notwithstanding the provisions of Section 22-8-26 NMSA 1978, a state-chartered charter school that receives a transportation allocation that exceeds the amount required to provide to-and-from transportation, three- and four-year-old developmentally disabled transportation and vocational education transportation shall deposit one hundred percent of the remaining balance in the transportation emergency fund at the end of fiscal year 2017.

(3) Supplemental distribution:

Appropriations:

(a)	Out-of-state tuition	300.0	300.0
(b)	Emergency supplemental	1,500.0	1,500.0

The secretary of public education shall not distribute any emergency supplemental funds to a school district or charter school that is not in compliance with the Audit Act or that has cash and invested reserves, or other resources or any combination thereof, equaling five percent or more of their operating budget.

Any unexpended balances in the supplemental distribution of the public education department remaining at the end of fiscal year 2017 from appropriations made from the general fund shall revert to the general fund.

Subtotal		2,623,557.9
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**FEDERAL FLOW THROUGH:**

Appropriations:	414,202.3	414,202.3
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Subtotal 414,202.3

**INSTRUCTIONAL MATERIALS:**

(1) Instructional material fund:

Appropriations: 20,650.0 20,650.0

The appropriation to the instructional material fund is made from federal Mineral Leasing Act receipts.

Notwithstanding the Instructional Material Law of the Public School Code, the public education department shall not calculate, allocate or withhold any entitlement or distribution for private school students or private schools from the instructional material fund consistent with the decision in *Moses v. Skandera*, 2015-NMSC-036. Any balances remaining in the instructional material fund at the end of fiscal year 2016 as a result of the decision in *Moses v. Skandera* shall be allocated to all other eligible entities in fiscal year 2017 pursuant to the Instructional Material Law.

(2) Dual-credit instructional materials:

Appropriations: 1,000.0 1,000.0

The general fund appropriation to the public education department for dual-credit instructional materials shall be used by the department to reimburse school districts, charter schools, state-supported schools and bureau of Indian education high schools in New Mexico for the cost of required textbooks and other course supplies for students enrolled in the dual-credit program to the extent of the available funds.

Any unexpended balances in the dual-credit instructional materials distribution remaining at the end of fiscal year 2017 from appropriations made from the general fund shall revert to the general fund.

Subtotal 21,650.0

**INDIAN EDUCATION FUND:**

Appropriations: 1,824.6 675.4 2,500.0

The general fund appropriation to the Indian education fund of the public education department includes four hundred thousand dollars (\$400,000) for a nonprofit organization [~~that recruits recent college graduates and professionals who have demonstrated a record of achievement to teach in low-income urban and rural public schools~~] to provide teaching support in schools with a high proportion of Native American students. *LINE-ITEM VETO*

The other state funds appropriation is from the Indian education fund.

Subtotal 2,500.0

**STANDARDS-BASED ASSESSMENTS:**

Appropriations: 6,000.0 6,000.0

Subtotal 6,000.0

TOTAL PUBLIC SCHOOL SUPPORT	2,648,032.5	5,675.4	414,202.3	3,067,910.2
GRAND TOTAL FISCAL YEAR 2017				
APPROPRIATIONS	6,213,318.0	4,079,870.5	502,013.3	7,635,765.5
				18,430,967.3

## Chapter 11 Section 5 Laws 2016

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 2016 and 2017. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2017 shall revert to the appropriate fund.

(1) LEGISLATIVE COUNCIL SERVICE 100.0 100.0

For administrative support for the capitol buildings planning commission. The appropriation is from legislative cash balances.

(2) LEGISLATIVE COUNCIL SERVICE 2,500.0 2,500.0

For capitol repairs and infrastructure upgrades. The appropriation is from legislative cash balances.

(3) LEGISLATIVE COUNCIL SERVICE 50.0 50.0

To contract for a study regarding the advisory staff of the public regulation commission, including a determination of best practices and optimal allocations of staff and budget between advisory and advocacy positions. Recommendations shall be submitted and presented to the legislative council and legislative finance committee by September 30, 2016. The appropriation is from legislative cash balances.

(4) ADMINISTRATIVE OFFICE  
OF THE COURTS 800.0 800.0

To address court priorities including funding for vehicles, furniture and equipment at courts statewide.

(5) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2016 from revenues received in fiscal year 2016 and prior years by a district attorney or the administrative office of the district attorneys from the United States department of justice pursuant to the southwest border prosecution initiative shall not revert and shall remain with the recipient district attorney's office for expenditure in fiscal year 2017. Prior to November 1, 2016, the administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee a detailed report documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2016 for each of the district attorneys and the administrative office of the district attorneys.

(6) ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2016 from revenues received in fiscal year 2016 and prior years by a district attorney from any Native American tribe, pueblo or political subdivision pursuant to a contract, memorandum of understanding, joint powers agreement or grant shall not revert

and shall remain with the recipient district attorney's office for expenditure in fiscal year 2017. Prior to November 1, 2016, the administrative office of the district attorneys shall provide the department of finance and administration and the legislative finance committee a detailed report documenting the amount of all funds received from Native American tribes, pueblos and political subdivisions pursuant to a contract, memorandum of understanding, joint powers agreement or grant that do not revert at the end of fiscal year 2016 for each of the district attorneys and the administrative office of the district attorneys.

(7) ATTORNEY GENERAL

Any unexpended balances in the mortgage settlement fund remaining at the end of fiscal year 2016 shall not revert and shall be available for expenditure in fiscal year 2017 to support the keep your home New Mexico program in the legal services program.

(8) ATTORNEY GENERAL 476.0 476.0

For relocation of the Albuquerque office. The appropriation is from the consumer settlement fund of the attorney general's office.

(9) ATTORNEY GENERAL 1,500.0 1,500.0

To defend the Rio Grande compact. The appropriation is from the consumer settlement fund of the attorney general's office.

~~(10) DEPARTMENT OF FINANCE~~

~~AND ADMINISTRATION 100.0 100.0~~

~~For distribution to the renewable energy transmission authority for use in fiscal year 2017. The renewable energy transmission authority shall report to the interim New Mexico finance authority oversight committee on the status of the agency's budget and operations.] LINE-ITEM VETO~~

(11) DEPARTMENT OF FINANCE

AND ADMINISTRATION 750.0 750.0

For payment card industry and data security standards compliance program.

(12) DEPARTMENT OF FINANCE

AND ADMINISTRATION 250.0 250.0

For post go-live support and configuration needs for software used to compile the comprehensive annual financial report.

(13) DEPARTMENT OF FINANCE

AND ADMINISTRATION

The period of time for expending the one hundred fifty thousand dollars (\$150,000) appropriated from the general fund in Subsection 15 of Section 5 of Chapter 101 of Laws 2015 for utility infrastructure planning in San Juan county is extended through fiscal year 2017.

(14) GENERAL SERVICES DEPARTMENT 250.0 250.0

For operating expenses related to maintenance and emergency repairs of state-owned facilities in Santa Fe under the jurisdiction of the facilities management program of the general services department. The appropriation is from the public buildings repair fund.

(15) GENERAL SERVICES DEPARTMENT

The one million four hundred thousand dollars (\$1,400,000) appropriated from the public buildings repair fund to the property control division of the general services department in Subsection 23 of Section 5 of Chapter 227 of Laws 2013 as extended in Subsection 27 of Section 5 of Chapter 63 of Laws 2014 and in Subsection 17 of Section 5 of Chapter 101 of Laws 2015 to conduct facility condition assessments of all state facilities under the jurisdiction of the property control division of the general services department is re-appropriated to the facilities management program of the general services department for operating expenses through fiscal year 2017.

(16) GENERAL SERVICES DEPARTMENT

The one million two hundred thousand dollars (\$1,200,000) appropriated from the public buildings repair fund to the facilities management program of the general services department in Subsection 18 of Section 5 of Chapter 101 of Laws 2015 to develop and administer master planning guidelines and provide pre-implementation and training to executive agencies, to provide assessment of space and tenant assignments in buildings owned by the facilities management program and to provide assessment and valuation of land managed by the facilities management program is re-appropriated for the same purpose and other operating expenses and extended through fiscal year 2017.

(17) DEPARTMENT OF INFORMATION

TECHNOLOGY 400.0 400.0

For a statewide broadband study and plan.

(18) PUBLIC EMPLOYEES

RETIREMENT ASSOCIATION 77.3 77.3

To administer the social security administration program.

(19) SECRETARY OF STATE

Any unexpended balances in the administration and operations or elections program of the secretary of state remaining at the end of fiscal year 2016 from appropriations made from the general fund shall not revert to the general fund and shall be available for expenditure in fiscal year 2017.

(20) SECRETARY OF STATE 950.0 950.0

For expenses related to the 2016 general election.

~~(21) ECONOMIC DEVELOPMENT~~

~~DEPARTMENT 100.0 100.0~~

~~For performance excellence training, assessment services and assistance to businesses using Baldrige criteria. The appropriation is from the employment security department fund.] LINE-ITEM VETO~~

(22) ECONOMIC DEVELOPMENT

DEPARTMENT	1,250.0	1,250.0
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For the rapid response workforce program. Notwithstanding the provisions of Section 7-38-71 NMSA 1978, the appropriation is from the delinquent property tax fund.

(23) ECONOMIC DEVELOPMENT

DEPARTMENT	4,000.0	4,000.0
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~~To the development training fund for the job training incentive program. [At least one-third of the appropriation shall be expended for training in nonurban areas.] LINE-ITEM VETO~~

(24) REGULATION AND LICENSING

DEPARTMENT	14.0	14.0
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For training for financial institutions division examination staff on new financial regulatory requirements stemming from the federal Dodd-Frank Wall Street Reform and Consumer Protection Act. The appropriation is from the state financial regulation fund.

(25) GAMING CONTROL BOARD 50.0 50.0

For arbitration and litigation expenses related to tribal gaming.

(26) GAMING CONTROL BOARD

The period of time for expending the two hundred thousand dollars (\$200,000) appropriated from the general fund in Subsection 14 of Section 5 of Chapter 19 of Laws 2012 as extended in Subsection 32 of Section 5 of Chapter 227 of Laws 2013 and in Subsection 40 of Section 5 of Chapter 63 of Laws 2014 and in Subsection 28 of Section 5 of Chapter 101 of Laws 2015 for arbitration and litigation expenses related to tribal gaming is extended through fiscal year 2017.

(27) SPACEPORT AUTHORITY 1,200.0 1,200.0

For operating costs due to a shortfall in revenue from other sources. Notwithstanding the provisions of Section 59A-53-18 NMSA 1978, the appropriation is from the fire protection grant fund.

(28) CULTURAL AFFAIRS DEPARTMENT

The period of time for expending the three hundred thousand dollars (\$300,000) appropriated from the general fund in Subsection 31 of Section 5 of Chapter 101 of Laws 2015 for renovation and upgrades of exhibits at the museum of Indian arts and culture contingent on a private match of at least three hundred thousand dollars (\$300,000) is extended through fiscal year 2017.

~~(29) ENERGY, MINERALS AND~~

<del>NATURAL RESOURCES DEPARTMENT</del>	<del>100.0</del>	<del>100.0</del>
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~~For transfer to the Carlsbad brine well remediation fund contingent on enactment of House Bill 112, Senate Bill 8 or similar legislation of the second session of the fifty-second legislature establishing the Carlsbad brine well remediation authority and fund.] LINE-ITEM VETO~~

(30) COMMISSIONER OF PUBLIC LANDS 500.0 500.0

For natural resource restoration and remediation of state trust lands. The appropriation is from the state lands maintenance fund.

(31) COMMISSIONER OF PUBLIC LANDS 550.0 550.0

To complete historical back file conversion. The appropriation is from the state lands maintenance fund.

(32) STATE ENGINEER 1,500.0 1,500.0

To continue water litigation under interstate compacts. The appropriation is from the consumer settlement fund of the attorney general's office.

(33) HUMAN SERVICES DEPARTMENT

Any unexpended balances in the income support program of the human services department remaining at the end of fiscal year 2016 from reimbursements received from the social security administration to support the general assistance program shall not revert and may be expended by the human services department in fiscal year 2017 for payments in the general assistance program.

(34) HUMAN SERVICES DEPARTMENT 217.4 217.4

To hire and train additional full-time-equivalent positions within the behavioral health services division to take over the administrative services function of the behavioral health services contractor.

(35) WORKERS' COMPENSATION ADMINISTRATION 250.0 250.0

To update an analysis of the state workers' compensation system. The appropriation is from the workers' compensation administration fund of the workers' compensation administration.

(36) DEPARTMENT OF HEALTH

Any unexpended balances in the developmental disabilities support program of the department of health in the other financing uses category remaining at the end of fiscal year 2016 from appropriations made from the general fund shall not revert to the general fund and may be expended in fiscal year 2017 to support the developmental disabilities medicaid waiver program in the developmental disabilities support program of the department of health.

(37) DEPARTMENT OF HEALTH

Any unexpended balances in the medical cannabis program of the department of health remaining at the end of fiscal year 2016 from appropriations made from other state funds shall not revert and shall be expended in fiscal year 2017 for the medical cannabis program.

(38) DEPARTMENT OF HEALTH 4,000.0 2,840.0 6,840.0

For expenses as a result of the federal Waldrop settlement agreement and Jackson lawsuit disengagement. The internal service funds/interagency transfers appropriation is from federal funds from the human services department.

(39) DEPARTMENT OF HEALTH 400.0 400.0

To expand sexual violence prevention and therapeutic services in the injury and behavioral health epidemiology program.

(40) DEPARTMENT OF ENVIRONMENT 1,000.0 1,000.0

For environmental litigation relating to the Gold King mine spill. The appropriation is from the consumer settlement fund of the attorney general's office.

(41) CHILDREN, YOUTH AND  
FAMILIES DEPARTMENT

Any unexpended balances in the protective services program, early childhood services program and the juvenile justice facilities program of the children, youth and families department remaining at the end of fiscal year 2016 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2017.

(42) CHILDREN, YOUTH AND  
FAMILIES DEPARTMENT 250.0 250.0

For relocation costs related to the child wellness center in Bernalillo county. The appropriation is from the appropriation contingency fund.

(43) CORRECTIONS DEPARTMENT 13,000.0 13,000.0

For inmate population growth, the treatment of hepatitis C and other costs.

(44) CORRECTIONS DEPARTMENT 500.0 500.0

To address deferred maintenance at corrections facilities statewide. The appropriation is from distributions from the land grant permanent fund.

(45) CRIME VICTIMS REPARATION  
COMMISSION

The one hundred twenty-five thousand dollars (\$125,000) appropriated in Section 4 of Chapter 101 of Laws 2015 to the crime victims reparation commission for support, advocacy and services for victims shall not revert to the general fund and is re-appropriated for support, advocacy and services for victims of human trafficking, sexual assault and domestic violence for use in fiscal year 2017 and subsequent fiscal years.

(46) DEPARTMENT OF PUBLIC SAFETY 315.0 315.0

For latent fingerprint contractors to clear backlogged cases.

(47) DEPARTMENT OF PUBLIC SAFETY 1,200.0 1,200.0

For the processing of backlogged rape kits at the department.

(48) DEPARTMENT OF PUBLIC SAFETY 100.6 100.6

To replace law enforcement breath testing instruments deployed statewide.

(49) HOMELAND SECURITY AND  
EMERGENCY MANAGEMENT DEPARTMENT 250.0 250.0

For department of information technology radio assessments.

(50) DEPARTMENT OF TRANSPORTATION

The period of time for expending up to fifty million dollars (\$50,000,000) of other state funds and federal funds appropriated to the modal program of the department of transportation pertaining to prior fiscal years is extended through fiscal year 2017.

(51) DEPARTMENT OF TRANSPORTATION

The period of time for expending up to fifty-five million dollars (\$55,000,000) of other state funds and federal funds appropriated to the highway operations program of the department of transportation pertaining to prior fiscal years is extended through fiscal year 2017.

(52) DEPARTMENT OF TRANSPORTATION

The period of time for expending up to three hundred seventy-five million dollars (\$375,000,000) of other state funds and federal funds appropriated to the project design and construction program of the department of transportation pertaining to prior fiscal years is extended through fiscal year 2017.

(53) PUBLIC EDUCATION DEPARTMENT

Except for the one million five hundred thousand dollars (\$1,500,000) contained in item 58 in this section, the general fund appropriations to the public education department in Subparagraphs (a) through (u) of the public education department special appropriations in Subsection I of Section 4 of Chapter 101 of Laws 2015 are re-appropriated and extended through fiscal year 2017 for the same purpose.

(54) PUBLIC EDUCATION DEPARTMENT 2,000.0 2,000.0

For emergency support to school districts experiencing shortfalls. All requirements for distribution shall be in accordance with Section 22-8-30 NMSA 1978.

(55) PUBLIC EDUCATION DEPARTMENT 1,200.0 1,200.0

For expenditures associated with legal fees related to funding formula lawsuits.

(56) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the two million dollars (\$2,000,000) appropriated from the general fund to the public education department in Subsection 57 of Section 5 of Chapter 101 of Laws 2015 for



emergency support to school districts experiencing shortfalls and the two million dollars (\$2,000,000) appropriated from the general fund to the supplemental distribution of public school support in Paragraph 3(b) of Subsection K of Section 4 of Chapter 101 of Laws 2015 for support to school districts experiencing shortfalls is extended through fiscal year 2017.

~~[(57) PUBLIC EDUCATION DEPARTMENT 1,300.0 1,000.0 2,300.0~~

~~To fund Section 7 of Senate Bill 141 of the second session of the fifty-second legislature in fiscal year 2017 contingent on enactment of Senate Bill 141 of the second session of the fifty-second legislature. The other state funds appropriation is from the state support reserve fund.] LINE-ITEM VETO~~

(58) PUBLIC EDUCATION DEPARTMENT

Up to one million five hundred thousand dollars (\$1,500,000) of the general fund appropriations made to the public education department special appropriations in Subparagraphs (a), (m) and (o) through (u) of Subsection I of Section 4 of Chapter 101 of Laws 2015 shall not revert at the end of fiscal year 2016 and are re-appropriated for distribution to classroom teachers to purchase classroom supplies and to support the department's teacher advisory and training support initiative in fiscal year 2017.

(59) PUBLIC EDUCATION DEPARTMENT

The period of time for expending up to one million dollars (\$1,000,000) appropriated from the general fund to the public education department in Subsection 56 of Section 5 of Chapter 101 of Laws 2015 for distribution to classroom teachers to purchase classroom supplies is extended through fiscal year 2017.

(60) HIGHER EDUCATION DEPARTMENT 367.9 367.9

For instruction and general funding formula adjustments in fiscal year 2017.

~~[(61) HIGHER EDUCATION DEPARTMENT 300.0 300.0~~

~~To provide grants to public universities for emergency communication infrastructure with priority given to those rural universities that have limited public safety infrastructure.] LINE-ITEM VETO~~

(62) NEW MEXICO STATE UNIVERSITY

Any unexpended balances in the agricultural experiment station program of the New Mexico state university remaining at the end of fiscal year 2016 from the appropriation made from the general fund in Section 4 of Chapter 101 of Laws 2015 to provide staff services at the Alcalde agricultural experiment station for the Los Luceros ranch pursuant to an agreement with the cultural affairs department shall revert to the general fund at the end of fiscal year 2016.

(63) COMPUTER SYSTEMS

ENHANCEMENT FUND 12,653.1 12,653.1

For transfer to the computer systems enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS 45,031.3 12,740.0 2,840.0 60,611.3

## Chapter 11 Section 6 Laws 2016

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 2016 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 2016 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2016 shall revert to the appropriate fund. *LINE-ITEM VETO*

(1) COURT OF APPEALS 1.4 3.4 4.8

For a shortfall in fiscal year 2015. The other state funds appropriation is from cash balances.

(2) ADMINISTRATIVE OFFICE  
OF THE COURTS 394.5 394.5

For a projected shortfall in the court-appointed attorney fund in fiscal year 2016.

(3) ADMINISTRATIVE OFFICE  
OF THE COURTS 291.0 100.0 391.0

For juror and interpreter costs in fiscal year 2016. Notwithstanding the provisions of Section 35-6-8 NMSA 1978, the other state funds appropriation is from the magistrate court mediation fund.

(4) ADMINISTRATIVE OFFICE OF  
THE COURTS 574.1 574.1

For juror and interpreter costs incurred in fiscal year 2015.

(5) ADMINISTRATIVE OFFICE  
OF THE COURTS 200.0 300.0 500.0

For the magistrate court for a projected shortfall in lease payments. Notwithstanding the provisions of Section 72-4A-9(A) NMSA 1978, the other state funds appropriation is from the water rights adjudication fund.

(6) FIRST JUDICIAL DISTRICT COURT 23.9 23.9

To offset a prior year budget deficit.

(7) FIFTH JUDICIAL DISTRICT COURT 11.5 11.5

To offset a prior year budget deficit.

(8) THIRTEENTH JUDICIAL  
DISTRICT COURT 50.0 50.0

To offset a prior year budget deficit.

(9) ADMINISTRATIVE HEARING OFFICE 60.0 60.0

For a projected shortfall in the personal services and employee benefits category in fiscal year 2016 and for a contract hearing officer to conduct tax hearings.

(10) PUBLIC DEFENDER DEPARTMENT 200.0 200.0

For a projected shortfall in the personal services and employee benefits and other categories.

(11) DEPARTMENT OF INFORMATION  
TECHNOLOGY 1,250.0 1,250.0

To cover a projected shortfall in the enterprise services program fund in fiscal year 2016.

(12) SECRETARY OF STATE 500.0 500.0

For expenses related to the 2016 primary election.

(13) PUBLIC EMPLOYEE LABOR  
RELATIONS BOARD 1.4 1.4

For a shortfall in the personal services and employee benefits category incurred in fiscal year 2015.

(14) CULTURAL AFFAIRS DEPARTMENT 450.0 550.0 1,000.0

For a projected shortfall in the personal services and employee benefits category in the museums and historic sites and program support programs in fiscal year 2016. The other state funds appropriation is from enterprise fund balances.

(15) MARTIN LUTHER KING, JR.  
COMMISSION 40.0 40.0

For a projected shortfall [in fiscal year 2016] due to accounting errors. *LINE-ITEM VETO*

(16) HUMAN SERVICES DEPARTMENT 18,000.0 21,000.0 91,000.0  
130,000.0

For medicaid expenses from fiscal years 2014 and 2015 and a projected shortfall in fiscal year 2016. The internal service funds/interagency transfers appropriation is from intergovernmental transfers or certified public expenditures.

(17) DEPARTMENT OF HEALTH 1,436.0 1,436.0

For a projected shortfall in the personal services and employee benefits category in the facilities management program in fiscal year 2016.

(18)	CHILDREN, YOUTH AND				
	FAMILIES DEPARTMENT	892.9		644.2	1,537.1

For the care and support of children in custody.

(19)	DEPARTMENT OF PUBLIC SAFETY	110.0			110.0
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To provide operational support for the state forensic laboratories and for a projected shortfall in fiscal year 2016.

TOTAL SUPPLEMENTAL AND

DEFICIENCY APPROPRIATIONS	24,486.7	953.4	21,000.0	91,644.2
	138,084.3			

## Chapter 11 Section 7 Laws 2016

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 2016, 2017 and 2018. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2018 shall revert to the computer systems enhancement fund or other funds as indicated. ~~[For each executive branch agency project, the information technology commission shall certify that the purpose specified in this section complies with Section 9-27-9 NMSA 1978, prior to the allocation of twelve million two hundred twenty-seven thousand three hundred dollars (\$12,227,300) by the department of finance and administration.]~~ The department of finance and administration shall allocate amounts from the funds for the purposes specified on receiving certification and supporting documentation from the state chief information officer that indicates compliance with the project certification process. The judicial information systems council shall certify compliance to the department of finance and administration for judicial branch projects. For executive branch agencies, all hardware and software purchases funded through appropriations made in Sections 4, 5, 6 and 7 of this act shall be procured using consolidated purchasing led by the state chief information officer and state purchasing division to achieve economies of scale and to provide the state with the best unit price. *LINE-ITEM VETO*

(1)	ADMINISTRATIVE OFFICE				
	OF THE COURTS	100.0		100.0	

To implement cash remediation upgrades.

(2)	ADMINISTRATIVE OFFICE				
	OF THE COURTS	325.8		325.8	

To upgrade the odyssey judiciary business application system.

(3)	TAXATION AND REVENUE DEPARTMENT				
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The period of time for expending the twelve million eight hundred ninety-seven thousand one hundred dollars (\$12,897,100) appropriated from the computer systems enhancement fund in Subsection 2 of Section 7 of Chapter 1 of Laws 2014 to implement the motor vehicle division system modernization

project is extended through fiscal year 2018. Eight million six thousand eight hundred dollars (\$8,006,800) of the other state funds appropriation is from cash balances.

(4)	TAXATION AND REVENUE DEPARTMENT	1,973.7	1,973.7
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To implement the motor vehicle division system modernization project. The appropriation is from fund balances.

(5)	TAXATION AND REVENUE DEPARTMENT 10,000.0	10,000.0	
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To replace the oil and natural gas administration and revenue database system. Five million dollars (\$5,000,000) of the other state funds appropriation is from the state lands maintenance fund.

(6)	TAXATION AND REVENUE DEPARTMENT	2,000.0	2,000.0
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To modernize the property tax business system. The appropriation is from the delinquent property tax fund.

(7)	TAXATION AND REVENUE DEPARTMENT	300.0	300.0
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To implement cash remediation upgrades.

(8)	GENERAL SERVICES DEPARTMENT	1,960.2	1,960.2
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To implement the capital asset management and planning system. The appropriation is from the state purchasing enterprise fund.

(9)	GENERAL SERVICES DEPARTMENT		
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The period of time for expending the one million five hundred thousand dollars (\$1,500,000) appropriated from the workers' compensation retention fund, the public property reserve fund and the public liability fund in Subsection 7 of Section 7 of Chapter 63 of Laws 2014 to implement the risk management information system is extended through fiscal year 2017.

(10)	DEPARTMENT OF INFORMATION TECHNOLOGY	600.0	600.0
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To continue implementation of the one-stop business portal.

(11)	PUBLIC EMPLOYEES RETIREMENT ASSOCIATION	4,200.0	4,200.0
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To upgrade the retirement information online system. The appropriation is from interest on investments. Two million five hundred thousand dollars (\$2,500,000) from the other state funds appropriation for the retirement information online system enhancement is contingent on the public employees retirement association conducting an assessment of the pension administration module of the statewide human resources, accounting and reporting system and other commercially available alternative systems and providing the department of information technology, the department of finance and administration and the legislative finance committee a detailed report of the assessment.

(12) OFFICE OF SUPERINTENDENT  
OF INSURANCE

The period of time for expending one million two hundred fifty thousand dollars (\$1,250,000) appropriated from the computer systems enhancement fund in Subsection 13 of Section 7 of Chapter 227 of Laws 2013 as extended in Subsection 17 of Section 7 of Chapter 101 of Laws 2015 to migrate the insurance system and processes to a paperless, web-based environment is extended through fiscal year 2018. The appropriation is from the insurance operations fund.

(13)	CULTURAL AFFAIRS DEPARTMENT	300.0	300.0
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To modernize the cultural resources information system.

(14) COMMISSIONER OF PUBLIC LANDS

The period of time for expending the two million eight hundred thousand dollars (\$2,800,000) appropriated from the state lands maintenance fund in Subsection 15 of Section 7 of Chapter 63 of Laws 2014 to continue the implementation of the land information management system is extended through fiscal year 2017.

(15)	HUMAN SERVICES DEPARTMENT	2,800.0	28,000.0	30,800.0
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To plan and implement the replacement of the medicaid management information system.

(16)	WORKFORCE SOLUTIONS DEPARTMENT	137.3	137.3
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To implement an internship portal.

(17)	DEPARTMENT OF HEALTH	40.0	360.0	400.0
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To plan and implement a developmental disabilities client management support system.

(18)	DEPARTMENT OF HEALTH	500.0	500.0
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To implement infrastructure upgrades.

(19)	CORRECTIONS DEPARTMENT	7,300.0	7,300.0
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To implement a commercial off-the-shelf offender management information system. The other state funds appropriation includes one million six hundred thousand dollars (\$1,600,000) from the community corrections grant fund and three million three hundred thousand dollars (\$3,300,000) from the intensive supervision fund.

(20)	DEPARTMENT OF PUBLIC SAFETY	150.0	150.0
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To enhance the consolidated offender query database for the criminal history clearinghouse.

TOTAL DATA PROCESSING APPROPRIATIONS	61,047.0	32,687.0	28,360.0
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## Chapter 11 Section 8 Laws 2016

Section 8. ADDITIONAL FISCAL YEAR 2016 BUDGET ADJUSTMENT AUTHORITY.--During fiscal year 2016, 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 2015:

A. in addition to the specific program transfers authorized in this section and specific statutory provisions regarding restricted funds notwithstanding, all agencies may request program transfers;

B. the administrative office of the courts may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds from political subdivisions of the state to reimburse magistrate courts for services, may request budget increases up to fifty thousand dollars (\$50,000) from magistrate drug court fund balances for driving-while-intoxicated program manager costs and may request budget increases up to two hundred fifty thousand dollars (\$250,000) from water rights adjudication fund balances for operating expenses;

C. the fifth judicial district court may request budget increases up to thirty-five thousand dollars (\$35,000) from duplication fees;

D. the sixth judicial district court may request budget increases up to sixty-four thousand one hundred dollars (\$64,100) from internal service funds/interagency transfers from the administrative office of the courts for the Grant county drug court program;

E. the ninth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from drug court fees and may request budget increases up to thirty thousand dollars (\$30,000) from domestic filing fee fund balances for personal services and employee benefits;

F. the eleventh judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from adult drug court fees;

G. the thirteenth judicial district court may request budget increases up to thirty thousand dollars (\$30,000) from other state funds and internal service funds/interagency transfers received for mental health treatment services;

H. the eleventh judicial district attorney, division II may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes to assist in the prosecution of crimes within McKinley county and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal

service funds/interagency transfers and other state funds from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978, for case prosecution;

I. the medicaid fraud program of the office of the attorney general may request budget increases up to one hundred twenty thousand dollars (\$120,000) from the consumer settlement fund of the attorney general's office to match federal funds;

J. the motor vehicle program of the taxation and revenue department may request budget increases up to three hundred thousand dollars (\$300,000) from the enhanced driver's license fund for costs associated with bringing the state's driver's licenses and identification cards into compliance with the federal REAL ID Act of 2005;

K. the securities division of the regulation and licensing department may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for media and outreach efforts, the financial institutions program may request budget increases up to two hundred thirty thousand dollars (\$230,000) from the mortgage regulatory fund for office space reconfiguration and the construction industries and manufactured housing program may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers from the public school facilities authority for permitting and inspecting projects funded under the Public School Capital Outlay Act;

L. the public regulation commission may request program transfers up to two hundred fifty thousand dollars (\$250,000) among programs to cover a shortfall in personal services and employee benefits;

M. the patient's compensation fund program of the office of superintendent of insurance may request budget increases up to ten million dollars (\$10,000,000) from fund balances for patient compensation settlements and court-ordered payments;

N. the cultural affairs department may request program transfers among programs and budget increases up to seven hundred fifty thousand dollars (\$750,000) from the cultural affairs department enterprise fund to cover a shortfall in personal services and employee benefits;

O. the office of the state engineer may request program transfers up to three hundred thousand dollars (\$300,000) to the water resource allocation program to cover a shortfall in personal services and employee benefits;

P. the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

Q. the rehabilitation services program of the division of vocational rehabilitation may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds for services for the disabled;



R. the department of health may request program transfers from the public health program, epidemiology and response program and the administration program to the facilities management program to address any budget shortfalls;

S. the environmental health program of the department of the environment may request budget increases up to one hundred eighty-five thousand dollars (\$185,000) from other state funds to provide technical and community services related to the New Mexico finance authority's drinking water state revolving loan fund, local government planning fund and water project fund programs and the resource protection program may request budget increases from other state funds and internal service funds/interagency transfers from the brownfields revolving loan fund for environmental assessments and cleanup activities;

T. the veterans' services department may request budget increases up to twenty-five thousand dollars (\$25,000) from license plate revenues;

U. the early childhood services program and the protective services program of the children, youth and families department may request budget increases from unexpended general fund balances resulting from Subsection 44 of Section 5 of Chapter 101 of Laws 2015;

V. the New Mexico crime victims reparation commission may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for care and support; and

W. the department of transportation may request program transfers among the project design and construction program and the highway operations program and the modal program for costs related to engineering, construction and maintenance services, may request program transfers into the personal services and employee benefits category and may request budget increases up to forty-five million dollars (\$45,000,000) from other state funds and fund balances to meet federal match requirements, for debt service and related costs, intergovernmental agreements, lawsuit and construction- and maintenance-related costs.

## **Chapter 11 Section 9 Laws 2016**

Section 9. CERTAIN FISCAL YEAR 2017 BUDGET ADJUSTMENTS  
AUTHORIZED.--

A. As used in this section and Section 8 of the General Appropriation Act of 2016:

(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 2017.

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 and in addition to the specific program transfers authorized in this section and specific statutory provisions regarding restricted funds notwithstanding, all agencies may request program transfers.

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 2016. To track the five percent transfer limitation, agencies shall report cumulative budget adjustment request totals on each budget adjustment 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 2016, the following agencies may request specified budget adjustments:

(1) the New Mexico compilation commission may request budget increases from internal service funds/interagency transfers and other state funds for publishing costs;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements;

(3) the administrative office of the courts may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the New Mexico finance authority to equip, furnish and secure magistrate courts statewide and may

request budget increases up to two hundred fifty thousand dollars (\$250,000) from water rights adjudication fund balances for operating expenses;

(4) the second judicial district court may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds or internal service funds/interagency transfers received from the behavioral health program of the human services department for the veterans' treatment court program, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds received from Bernalillo county and may request budget increases up to fifty thousand dollars (\$50,000) from adult drug court fees;

(5) the third judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from program revenues received from mediation service fees;

(6) the eleventh judicial district court may request budget increases up to twenty thousand dollars (\$20,000) from adult drug court treatment fund balances, may request budget increases up to ten thousand dollars (\$10,000) from copy fees, may request budget increases up to twenty thousand dollars (\$20,000) from mediation service fees and may request budget increases up to twenty-five thousand dollars (\$25,000) from adult drug court fees;

(7) the thirteenth judicial district court may request budget increases up to one hundred ten thousand dollars (\$110,000) from other state funds for pretrial services, may request budget increases up to one hundred fifty thousand dollars (\$150,000) from other state funds for foreclosure settlement services and may request budget increases up to one hundred twenty thousand dollars (\$120,000) from other state funds or internal service funds/interagency transfers for mental health treatment services;

(8) the first judicial district attorney may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes and may request budget increases up to one hundred twenty-five thousand dollars (\$125,000) from internal service funds/interagency transfers to prosecute white collar and public integrity crimes statewide;

(9) the second judicial district attorney may request budget increases up to one hundred ninety thousand dollars (\$190,000) from internal service funds/interagency transfers and other state funds for case prosecution;

(10) 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 case prosecution;

(11) the twelfth judicial district attorney may request budget increases up to one hundred thousand dollars (\$100,000) from internal service funds/interagency transfers and from other state funds from any political subdivision of the state or from Native American tribes to assist in the prosecution of crimes within Otero and Lincoln counties;

(12) the thirteenth judicial district attorney may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes to assist in case prosecution;

(13) the medicaid fraud program of the office of the attorney general may request budget increases up to one hundred thousand dollars (\$100,000) from the consumer settlement fund of the attorney general's office for unexpected litigation costs related to medicaid fraud investigations and prosecutions and the legal services program may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for unexpected costs for civil and criminal prosecution, utility rate cases and consumer protection cases;

(14) the office of the state auditor may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds to assist local public bodies in meeting financial reporting requirements or to assist in special investigations;

(15) the taxation and revenue department may request budget increases up to seven hundred thousand dollars (\$700,000) from the weight distance tax identification permit fund to transfer to the department of transportation and the motor vehicle program may request budget increases up to three hundred thousand dollars (\$300,000) from the enhanced driver's license fund for federal REAL ID Act of 2005 expenditures;

(16) the state investment council may request budget increases from other state funds for investment-related management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of employees or visitors;

(17) the benefits and risk programs and program support of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances;

(18) program support of the retiree health care authority may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds and internal service funds/interagency transfers for information technology services and the healthcare benefits administration program may request budget increases from other state funds;

(19) the general services department may request program transfers up to three hundred thousand dollars (\$300,000) to cover a historical deficit in the state printing services program, the risk management program may request budget increases up to three hundred thousand dollars (\$300,000) from internal service funds/interagency transfers in the risk management operating fund for operating expenses and the procurement services program may request category transfers up to eighty-five thousand four hundred dollars (\$85,400) to and from the other financing uses category and may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for operating expenses and the certification of procurement officers;

(20) the educational retirement board may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or physical plant failures that might impact the health and safety of employees or visitors;

(21) the department of information technology may request budget increases up to two million dollars (\$2,000,000) from fund balances for telecommunication, information processing and the statewide human resources, accounting and management reporting system, may request budget increases up to five million dollars (\$5,000,000) from statewide human resources, accounting and management reporting system equipment replacement fund balances to replace equipment, may request budget increases up to ten percent of internal service funds/interagency transfers and other state funds appropriated in Section 4 of the General Appropriation Act of 2016 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 department's independent audit for the fiscal year ended June 30, 2016, to acquire and replace capital equipment and associated software used to provide enterprise services;

(22) the public employees retirement association may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or physical plant failures that might impact the health and safety of employees or visitors;

(23) the office of the secretary of state may request program transfers from the administration and operations program to the elections program;

(24) the boards and commissions program of the regulation and licensing department may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds to reconfigure and consolidate office space and bring the Toney Anaya building into compliance with the federal Americans with Disabilities Act and the real estate commission may request budget increases up to forty-five thousand dollars (\$45,000) from the real estate education and training fund and commission cash balances for real estate instructor training and curriculum development;

(25) the public safety program of the public regulation commission may request budget increases up to five hundred thousand dollars (\$500,000) from the firefighter training use fee fund for the fire marshal division's firefighter training academy;

(26) the patient's compensation fund program of the office of superintendent of insurance may request budget increases from patient's compensation fund balances for patient compensation settlements and court-ordered payments;

(27) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for administrative hearing and litigation processes;

(28) the department of cultural affairs may request program transfers up to two hundred thousand dollars (\$200,000) among programs and may request budget increases from the cultural affairs department enterprise fund and the preservation program may request budget increases from other state funds for archaeological services or historic preservation services;

(29) the department of game and fish may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the game protection fund for emergencies;

(30) the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers from the department of environment, department of game and fish, homeland security and emergency management department and the office of the state engineer from federal funds to allow programs to maximize the use of federal grants and may request budget increases from internal service funds/interagency transfers from the department of transportation, New Mexico youth conservation corps, tourism department, economic development department and the department of game and fish from funds related to projects approved by the Rio Grande trail commission, the oil and gas conservation program may request budget increases from internal service funds/interagency transfers from 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 and may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for costs associated with the inmate work camp fund and the energy conservation and management program may request budget increases from internal service funds/interagency transfers and other state funds for project implementation;

(31) the commissioner of public lands may request budget increases up to fifty thousand dollars (\$50,000) from the state lands maintenance fund for travel expenses incurred while performing audits of companies that pay royalties to the state;

(32) the interstate stream compact compliance and water development program of the office of the state engineer may request budget increases up to four hundred thousand dollars (\$400,000) from the Ute dam construction fund to remove boat docks, modify the outlet works, start repairing the spillway or other operational requirements needed at Ute reservoir, may request budget increases up to three hundred thousand dollars (\$300,000) from the irrigation works construction fund for any additional operation and maintenance costs associated with the Pecos river settlement agreement, may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from boat dock revenue deposited into the Ute dam construction fund to transfer to the state parks program of the energy, minerals and natural resources department for inspection, enforcement and administration of boat docks at Ute reservoir per the memorandum of understanding between the two agencies, may request budget increases up to two hundred thousand dollars (\$200,000) from the federal bureau of reclamation for operation and maintenance costs of the Vaughan pipeline, may request budget increases up to forty thousand dollars (\$40,000) from contractual services reimbursements for water modeling supply studies and may request budget increases up to five thousand dollars (\$5,000) from the Navajo reservoir top water bank deposit fees for costs associated with managing the program;

(33) the commission for the blind may request budget increases from other state funds to contract for the employment of blind or visually impaired persons provided employment is pursuant to the federal Randolph-Sheppard Act, the federal Javits-Wagner-O'Day Act or the federal abilityone program;

(34) the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

(35) the independent living program of the division of vocational rehabilitation may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for independent living services for the disabled and the rehabilitation services program may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds for rehabilitation services for the disabled;

(36) the office of guardianship program of the developmental disabilities planning council may request budget increases from fund balances;

(37) the department of health may request program transfers from the public health program, epidemiology and response program and the administration program to the facilities management program for budget shortfalls, may request budget increases 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, the developmental disabilities support program may request budget increases from other state funds related to private insurer payments for family, infant, toddler services, the epidemiology and response program may request

budget increases from internal service funds/interagency transfers and other state funds from payments for conducting health-related surveys and analyzing data, the laboratory services program may request budget increases from internal service funds/interagency transfers and other state funds and the medical cannabis program may request budget increases from medical cannabis program revenue;

(38) the department of environment may request program transfers up to five hundred thousand dollars (\$500,000) among programs, the water protection program may request budget increases from other state funds and internal service funds/interagency transfers for responsible party payments, may request budget increases from other state funds and internal service funds/interagency transfers from the brownfields revolving loan fund for environmental assessments and cleanup activities, may request budget increases up to two hundred seventy-five thousand dollars (\$275,000) from other state funds and internal service funds/interagency transfers for providing technical or community services related to the New Mexico finance authority's drinking water state revolving loan fund, local government planning fund, water project fund and tribal infrastructure project fund programs and may request budget increases up to two hundred fifty thousand dollars (\$250,000) to coordinate multi-state Rio Grande salinity management programs and provide technical support for potential litigation on interstate streams and water issues and the resource protection program may request budget increases from other state funds and internal service funds/interagency transfers from the hazardous waste emergency fund for emergencies and may request budget increases from other state funds and internal service funds/interagency transfers from the corrective action fund for claims;

(39) the children, youth and families department may request program transfers between programs up to one million five hundred thousand dollars (\$1,500,000), the juvenile justice facilities program may request budget increases up to four hundred thousand dollars (\$400,000) from the juvenile continuum grant fund and may request budget increases up to two hundred thousand dollars (\$200,000) from the juvenile community corrections grant fund;

(40) the department of military affairs may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from leases, land royalties, miscellaneous revenue, gifts or grants for support of national guard facility operations and maintenance and repair of the New Mexico youth challenge academy;

(41) the corrections department may request program transfers up to three million dollars (\$3,000,000) 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, probation and parole fees, cash balances and the community corrections grant fund and may request budget increases up to five hundred thousand dollars (\$500,000) from fund balances, 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 land grant permanent fund and land income funds and inmate work crew income;

(42) the department of public safety may request budget increases up to one million dollars (\$1,000,000) from other state funds for project costs associated with the weight distance identification tax permit fund to include the oversize and overweight permitting system and may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds for public safety projects and activities with other state agencies, local governments and other law enforcement entities;

(43) the department of transportation may request program transfers among the project design and construction program and the highway operations program and the modal program for costs related to engineering, construction and maintenance services, may request program transfers into the personal services and employee benefits category, may request budget increases up to seven hundred thousand dollars (\$700,000) from other state funds and internal service funds/interagency transfers from the taxation and revenue department and may request budget increases up to one million three hundred eighty-six thousand two hundred dollars (\$1,386,200) from other state funds and internal service funds/interagency transfers from the department of public safety and may request budget increases up to two million dollars (\$2,000,000) from other state funds and fund balances from the state road fund to hire temporary workers and purchase equipment for commercial truck permitting and maintenance of port-of-entry facilities, may request budget increases up to four million five hundred thousand dollars (\$4,500,000) from other state funds and fund balances from the weight distance tax identification permit fund for capital improvements to port-of-entry facilities and may request budget increases up to thirty million dollars (\$30,000,000) from other state funds and fund balances to meet federal match requirements for debt service and related costs, intergovernmental agreements and lawsuit and construction- and maintenance-related costs; and

(44) the public education department may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund to provide public school transportation workshops and training.

F. The department of military affairs, the homeland security and emergency management department, the department of public safety and the energy, minerals and natural resources department may request budget increases from the general fund as required by an executive order declaring a disaster or emergency.

## **Chapter 11 Section 10 Laws 2016**

Section 10. FISCAL YEAR 2016 OPERATING BUDGET AND ALLOTMENT ADJUSTMENTS.--

A. The governor, with the approval of the state board of finance [~~and after review and an opportunity to comment by the legislative finance committee,~~] shall reduce the fiscal year 2016 general fund operating budget amounts by thirty one million dollars (\$31,000,000) of all agencies[~~, funds, programs~~] and other recipients that received a general fund appropriation in Section 4 of the General Appropriation Act of 2015 in accordance with the following provisions: *LINE-ITEM VETO*

(1) the reductions specified in this section shall be applied to all agencies[~~, funds, programs~~] and other recipients [~~and to all programs and categories within agencies~~] that receive a general fund appropriation in Section 4 of the General Appropriation Act of 2015, except that no reductions shall be made to the general fund operating budgets of the medicaid program or the medicaid behavioral health program of the human services department or to the developmental disabilities support program of the department of health; *LINE-ITEM VETO*

(2) the reductions specified in Paragraph (1) of this section shall be applied proportionately to each agency[~~, fund, program~~] and other recipients based on each agency's[~~, fund's, program's~~] and other recipients' share of the total general fund appropriation, excluding the general fund appropriations to the medicaid program and the medicaid behavioral health program of the human services department and to the developmental disabilities support program of the department of health, contained in Section 4 of the General Appropriation Act of 2015. *LINE-ITEM VETO*

(3) the operating budgets of legislative agencies from general fund appropriations in Subsection A of Section 3, and Sections 4, 5, 7 and 8 of Chapter 1 of Laws 2015 shall also be reduced in accordance with the provisions of this section.

B. The department of finance and administration shall reduce and otherwise adjust the general fund allotments of all agencies[~~, funds, programs~~] and other recipients in accordance with the reductions applied under this section. *LINE-ITEM VETO*

## **Chapter 11 Section 11 Laws 2016**

Section 11. APPROPRIATION ADJUSTMENTS.--The state budget division of the department of finance and administration shall proportionally reduce the general fund appropriations to operating budgets of legislative agencies in Laws 2016, Chapter 1, by a total of six hundred twenty-five thousand eight hundred dollars (\$625,800).

## **Chapter 11 Section 12 Laws 2016**

~~[Section 12. FISCAL YEAR 2017 OPERATING BUDGET AND ALLOTMENT ADJUSTMENTS.--~~

~~A. During fiscal year 2017, the department of finance and administration shall regularly consult with the legislative finance committee staff to compare revenue collections with the revenue estimate. If a general fund consensus revenue forecast projects that revenue and transfers to the general fund, including all transfers authorized pursuant to Section 13 of the General Appropriation Act of 2016, will be insufficient to meet general fund appropriations for fiscal year 2017, the governor, with the approval of the state board of finance and after review and an opportunity to comment by the legislative finance committee, shall reduce the fiscal year 2017 general fund operating budget amounts, by up to sixty-two million dollars (\$62,000,000), of all agencies, funds, programs and other recipients that received a general fund appropriation in the General Appropriation Act of 2016 in accordance with the following provisions:~~

~~(1) the reductions specified in this section shall be applied to all agencies, funds, programs and other recipients and to all programs and categories within agencies that receive a general fund appropriation in Section 4 of the General Appropriation Act of 2016, except that no reductions shall be made to the general fund operating budgets of the medicaid program or the medicaid behavioral health program of the human services department or to the developmental disabilities support program of the department of health;~~

~~(2) the reductions specified in Paragraph (1) of this section shall be applied proportionately to each agency, fund, program and other recipients based on each agency's, fund's, program's and other recipients' share of the total general fund appropriation, excluding the general fund appropriations to the medicaid program and the medicaid behavioral health program of the human services department and to the developmental disabilities support program of the department of health, contained in Section 4 of the General Appropriation Act of 2016; and~~

~~(3) the operating budgets of legislative agencies from general fund appropriations in Subsection A of Section 3, and Sections 4, 5, 7 and 8 of Chapter 1 of Laws 2016 shall also be reduced in accordance with the provisions of this section.~~

~~B. As used in this section, "general fund consensus revenue forecast" means the revenue estimates prepared by the career economists of the department of finance and administration, taxation and revenue department, department of transportation and legislative finance committee.~~

~~C. The department of finance and administration shall reduce and otherwise adjust the general fund allotments of all agencies, funds, programs and other recipients in accordance with the reductions applied under this section.]~~ *LINE-ITEM VETO*

## **Chapter 11 Section 13 Laws 2016**

Section 13. TRANSFER AUTHORITY.--

A. If revenue and transfers to the general fund at the end of fiscal year 2016 are not sufficient to meet appropriations, the governor, with the state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve and the appropriation contingency fund. This transfer is in addition to the transfer provided in Subsection B of Section 12 of Chapter 63 of Laws 2015.

B. If revenue and transfers to the general fund at the end of fiscal year 2017 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 and the appropriation contingency fund.

## **Chapter 11 Section 14 Laws 2016**

Section 14. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

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H AFC/House Bills 2 & 4, aa, w/cc, partial veto

Approved February 29, 2016

## **LAWS 2016, CHAPTER 12**

AN ACT

RELATING TO STATE EXPENDITURES; PROVIDING FOR CERTAIN DISTRIBUTIONS, TRANSFERS AND REVERSIONS TO THE GENERAL FUND OPERATING RESERVE OR THE APPROPRIATION ACCOUNT OF THE GENERAL FUND FROM OTHER FUNDS AND ACCOUNTS; MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

## **Chapter 12 Section 1 Laws 2016**

SECTION 1. FUND AND OTHER ACCOUNT TRANSFERS AND REVERSIONS TO GENERAL FUND--CERTAIN TAX AND SETTLEMENT DISTRIBUTIONS TO GENERAL FUND--FISCAL YEAR 2016.--

A. Notwithstanding any restriction on the use of money in the funds or accounts, the following amounts from the following funds or accounts are transferred to the general fund operating reserve in fiscal year 2016:

(1) one million dollars (\$1,000,000) from the New Mexico medical board fund; and

(2) three hundred thousand dollars (\$300,000) from the fund of the board of examiners for architects.

B. Three million two hundred fifty-five thousand dollars (\$3,255,000) of the general fund appropriation to the homeland security and emergency management department in Laws 2008 (2nd S.S.), Chapter 8 to plan, design and construct improvements to roads, bridges and infrastructure damaged by severe flooding in Lincoln and Otero counties, and for which the time was extended in Laws 2013, Chapter 202, Section 28 and Laws 2015, Chapter 147, Section 42, shall be transferred to the general fund operating reserve on the effective date of this act.

C. The total general fund appropriation of thirty-six million dollars (\$36,000,000) to the public education department in Laws 2013, Chapter 191 to provide supplemental special education maintenance of effort funding for the state's requirement pursuant to Part B of the federal Individuals with Disabilities Education Act shall be disencumbered and reverted to the general fund operating reserve on the effective date of this act.

D. Pursuant to the provisions of Section 6-4-2.2 NMSA 1978, one hundred forty-seven million five hundred thousand dollars (\$147,500,000) is transferred from the tax stabilization reserve to the general fund operating reserve on the effective date of this act.

E. Notwithstanding Section 66-5-44 NMSA 1978, driver safety fees or balances from driver safety fees held by the public education department in excess of the five million dollars (\$5,000,000) appropriated to the state equalization guarantee distribution in Subsection K of Section 4 of the General Appropriation Act of 2016 for use in fiscal year 2017 shall be transferred to the state support reserve fund.

## **Chapter 12 Section 2 Laws 2016**

### **SECTION 2. FUND AND OTHER ACCOUNT TRANSFERS AND REVERSIONS TO GENERAL FUND--CERTAIN TAX AND SETTLEMENT DISTRIBUTIONS TO GENERAL FUND--FISCAL YEAR 2017.--**

A. Notwithstanding any restriction on the use of money in the funds or accounts, the following amounts from the following funds or accounts are transferred to the fiscal year 2017 appropriation account of the general fund:

(1) one million dollars (\$1,000,000) is transferred from the legislative cash balances;

(2) one million dollars (\$1,000,000) is transferred from the attorney general's consumer settlement fund;

(3) two million dollars (\$2,000,000) is transferred from the weight distance tax identification permit fund;

(4) nine million dollars (\$9,000,000) is transferred from the delinquent property tax fund;

(5) four million dollars (\$4,000,000) is transferred from the local DWI grant fund;

(6) eight million seven hundred fifty thousand dollars (\$8,750,000) is transferred from the state government unemployment compensation reserve fund;

(7) one million five hundred thousand dollars (\$1,500,000) is transferred from the mortgage regulatory fund;

(8) four hundred fifty thousand dollars (\$450,000) is transferred from the insurance fraud fund;

(9) six million five hundred thousand dollars (\$6,500,000) is transferred from the workers' compensation administration fund;

(10) one million dollars (\$1,000,000) is transferred from the employment security department fund of the workforce solutions department;

(11) one million five hundred thousand dollars (\$1,500,000) is transferred from the rural infrastructure revolving loan fund;

(12) one million dollars (\$1,000,000) is transferred from the professional engineers' and surveyors' fund;

(13) two hundred forty-two thousand six hundred dollars (\$242,600) is transferred from the real estate recovery fund;

(14) one hundred five thousand two hundred dollars (\$105,200) is transferred from the construction industries division publications revolving fund;

(15) one million four hundred forty-eight thousand six hundred dollars (\$1,448,600) is transferred from the barbers and cosmetologists fund;

(16) one hundred fifty-three thousand four hundred dollars (\$153,400) is transferred from the athletic commission fund;

(17) three hundred nineteen thousand four hundred dollars (\$319,400) is transferred from the counseling and therapy practice board fund;

(18) five hundred thirty-eight thousand five hundred dollars (\$538,500) is transferred from the chiropractic fund;

(19) one hundred sixteen thousand eight hundred dollars (\$116,800) is transferred from the nutrition and dietetics fund;

(20) one hundred two thousand four hundred dollars (\$102,400) is transferred from the nursing home administrators fund;

(21) three hundred sixteen thousand six hundred dollars (\$316,600) is transferred from the board of examiners for occupational therapy fund;

(22) three hundred thousand seven hundred dollars (\$300,700) is transferred from the optometry fund;

(23) five hundred twenty-six thousand four hundred dollars (\$526,400) is transferred from the board of osteopathic medical examiners fund;

(24) one hundred nine thousand two hundred dollars (\$109,200) is transferred from the podiatry fund;

(25) six hundred thirty-five thousand one hundred dollars (\$635,100) is transferred from the physical therapy fund;

(26) two hundred four thousand nine hundred dollars (\$204,900) is transferred from the thanatopractice license fund;

(27) thirty-nine thousand four hundred dollars (\$39,400) is transferred from the interior design board fund;

(28) one hundred seventy-five thousand two hundred dollars (\$175,200) is transferred from the landscape architects fund;

(29) two hundred fifty-one thousand two hundred dollars (\$251,200) is transferred from the speech language pathology, audiology and hearing aid dispensing practices board fund;

(30) seventy-two thousand two hundred dollars (\$72,200) is transferred from the respiratory care fund;

(31) eighty-five thousand seven hundred dollars (\$85,700) is transferred from the athletic trainer practice board fund;

(32) sixty-five thousand two hundred dollars (\$65,200) is transferred from the impaired dentists and dental hygienist fund;

(33) one hundred thousand dollars (\$100,000) is transferred from the board of acupuncture and oriental medicine fund;

(34) three hundred thousand dollars (\$300,000) is transferred from the psychology fund; and

(35) one hundred thousand dollars (\$100,000) is transferred from the board of social work examiners fund.

B. Eight million dollars (\$8,000,000) of prior-year budget adjustments pursuant to Subsection A of Section 9 of Chapter 63 of Laws 2014 or from appropriations made in Paragraph (5) of Subsection A of Section 8 of Laws 2008 shall be reverted by each affected agency to the appropriation account of the general fund. The department of finance and administration shall work with each affected agency to ensure that unspent funds are reverted to the appropriation account after accounting for any remaining contingent liability.

C. Ten million dollars (\$10,000,000) is transferred from the New Mexico finance authority to the appropriation account of the general fund in fiscal year 2017. Except as otherwise provided in the Tax Administration Act, the amount is from the authority's fiscal year 2016 portion of the governmental gross receipts tax distributed to the authority pursuant to Section 7-1-6.38 NMSA 1978 that is not otherwise pledged for payment of obligations of the authority.

D. Fifty percent of the fiscal year 2017 distribution 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, shall be distributed to the tobacco settlement program fund; provided that this distribution is in addition to the annual distribution from the tobacco settlement permanent fund to the tobacco settlement program fund.

~~[E. The economic development department shall transfer fourteen million dollars (\$14,000,000) of appropriations made pursuant to Item 21 of Section 5 of Chapter 101 of Laws 2015 to the appropriation account of the general fund on September 1, 2016 if preliminary reporting in August 2016 for fiscal year 2016 ending balances shows general fund reserves are less than five percent of fiscal year 2017 general fund appropriations.]~~ *LINE-ITEM VETO*

F. The reversion requirements in Sections 22-24-4 and 22-25-10 NMSA 1978 or the reversion requirements of capital outlay laws notwithstanding, the balance of supplemental severance tax bond proceeds allocated to the public school capital improvements fund in calendar years 2010 through 2012 that have not been expended,



excluding those proceeds derived from bonds sold as long-term tax-exempt bonds, shall revert to the general fund.

G. The reversion requirements in Sections 22-24-4 and 22-25-10 NMSA 1978 notwithstanding, four million seven hundred twenty-four thousand three hundred sixty-nine dollars thirteen cents (\$4,724,369.13) of unexpended proceeds of supplemental severance tax bonds issued in calendar years 2003 and 2004 is transferred from the public school capital improvements fund to the general fund.

H. The provisions of Subsection B of Section 7-27-10.1 NMSA 1978 notwithstanding, four million three hundred twenty-eight thousand five hundred seventy-one dollars sixty-nine cents (\$4,328,571.69) of unexpended taxable severance tax bond proceeds appropriated to the water project fund of the New Mexico finance authority is transferred from the water project fund of the New Mexico finance authority to the general fund.

## **Chapter 12 Section 3 Laws 2016**

SECTION 3. REPEAL.--Laws 2013, Chapter 191 is repealed.

## **Chapter 12 Section 4 Laws 2016**

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 311, aa, w/ec, partial veto

Approved February 29, 2016

# **LAWS 2016, CHAPTER 13**

AN ACT

RELATING TO SECRETARY OF STATE REPORTS; ESTABLISHING REQUIREMENTS FOR THE ELECTRONIC REPORTING AND PUBLIC ACCESSIBILITY OF REPORTS OF POLITICAL CONTRIBUTIONS AND LOBBYING EXPENDITURES; CHANGING REPORTING REQUIREMENTS; CREATING A FUND.

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

## **Chapter 13 Section 1 Laws 2016**

SECTION 1. Section 1-19-27 NMSA 1978 (being Laws 1979, Chapter 360, Section 3, as amended) is amended to read:

"1-19-27. REPORTS REQUIRED--ELECTRONIC REPORTING SYSTEM--CAMPAIGN REPORTING SYSTEM FUND.--

A. All reporting individuals shall file with the secretary of state reports of expenditures and contributions and statements of no activity when required by the Campaign Reporting Act in an electronic format prescribed by the secretary of state.

B. The secretary of state shall develop or contract for services to develop an electronic reporting system for reporting individuals to register with the secretary of state and file all reports of expenditures and contributions and statements of no activity as required by the Campaign Reporting Act. The electronic reporting system shall:

(1) enable a person to register and file reports online by electronically submitting the relevant data to the secretary of state's website;

(2) for the submission of data, use unique identifiers and master drop-down lists of candidates, political committees, lobbyists and, to the extent reasonably possible, master lists of contributors, occupations, expenditure types and contribution types;

(3) provide the data in open, structured formats for easy search and download to allow for public inspection of all report data from the secretary of state's website;

(4) provide for cross-checking and compliance features;

(5) provide for online registration and fee payment for political committees and lobbyists;

(6) integrate, to the extent possible, with the reporting required by the Lobbyist Regulation Act;

(7) to the extent possible, provide for a mechanism to directly upload the required data from other third-party tools; and

(8) provide for encrypted transmissions.

C. Registration fees collected by the secretary of state from lobbyists and political committees shall be deposited in the "campaign reporting system fund", which is hereby created in the state treasury. Money in the fund is appropriated to the secretary of state for the purposes of paying for upgrades, maintenance and operation of the electronic reporting system. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund."

## Chapter 13 Section 2 Laws 2016

SECTION 2. Section 2-11-3 NMSA 1978 (being Laws 1977, Chapter 261, Section 3, as amended) is amended to read:

"2-11-3. REGISTRATION STATEMENT TO BE FILED--CONTENTS--  
MODIFICATION TO STATEMENT.--

A. In the month of January prior to each regular session or before any service covered by the Lobbyist Regulation Act commences, any individual who is initially employed or retained as a lobbyist shall register with the secretary of state by paying an annual filing fee of fifty dollars (\$50.00) for each of the lobbyist's employers and by filing a single registration statement under oath in an electronic format as prescribed by the secretary of state that states:

(1) the lobbyist's full name, permanent business address and business address while lobbying; and

(2) the name and address of each of the lobbyist's employers.

B. No registration fee shall be required of individuals receiving only reimbursement of personal expenses and no other compensation or salary for lobbying. Except as required by Subsection D of Section 2-11-6 NMSA 1978, no expenditure report shall be required if the lobbyist anticipates making or incurring and makes or incurs no expenditures or political contributions under Section 2-11-6 NMSA 1978. The lobbyist shall indicate in the lobbyist's registration statement whether those circumstances apply to the lobbyist.

C. Upon receipt of the online registration and payment, the secretary of state shall publish the registration information on the secretary of state's lobbying disclosure website.

D. For each employer listed in Paragraph (2) of Subsection A of this section, the lobbyist shall file the following information:

(1) a full disclosure of the sources of funds used for lobbying;

(2) an affirmation from each of the lobbyist's employers authorizing the lobbyist to lobby on the employer's behalf;

(3) a brief description of the matters in reference to which the service is to be rendered; and

(4) the name and address of the person, if other than the lobbyist or the lobbyist's employer, who will have custody of the accounts, bills, receipts, books,

papers and documents required to be kept under the provisions of the Lobbyist Regulation Act.

E. For each succeeding year that an individual is employed or retained as a lobbyist by the same employer, and for whom all the information disclosed in the initial registration statement remains substantially the same, the lobbyist shall file a simple annual registration renewal in January and pay the fifty-dollar (\$50.00) filing fee for each of the lobbyist's employers together with a short, abbreviated prescribed form for renewal.

F. Whenever there is a modification of the facts required to be set forth by this section or there is a termination of the lobbyist's employment as a lobbyist before the end of the calendar year, the lobbyist shall notify the secretary of state using the electronic registration system within one week of such occurrence and shall furnish full information concerning the modification or termination. If the lobbyist's employment terminates at the end of a calendar year, no separate termination need be reported."

## **Chapter 13 Section 3 Laws 2016**

SECTION 3. Section 2-11-6 NMSA 1978 (being Laws 1977, Chapter 261, Section 6, as amended) is amended to read:

"2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--REPORTING PERIODS.--

A. Each lobbyist who receives compensation or lobbyist's employer who makes or incurs expenditures or makes political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in support of or in opposition to a ballot issue or pending legislation or official action shall file an expenditure report with the secretary of state using an electronic reporting system approved by the secretary of state in accordance with Section 2-11-7 NMSA 1978. The expenditure report shall include a sworn statement that sets forth:

(1) each expenditure of one hundred dollars (\$100.00) or more made or incurred by the employer or lobbyist during the covered reporting period, indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories:

- (a) meals and beverages;
- (b) other entertainment expenditures; and
- (c) other expenditures;

(2) each political contribution made, and whether the contribution is from the lobbyist's employer or the lobbyist on the lobbyist's own behalf, identified by amount, date and name of the candidate or ballot issue supported or opposed; and

(3) the names, addresses, employers and occupations of other contributors and the amounts of their separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

B. The expenditure report shall be filed electronically and shall be electronically authenticated by the lobbyist or the lobbyist's employer using an electronic signature as prescribed by the secretary of state in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Lobbyist Regulation Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the lobbyist or the lobbyist's employer that is required to file the report.

C. In identifying expenditures pursuant to the provisions of Paragraph (1) of Subsection A of this section, in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

D. A lobbyist who accepts compensation for lobbying but does not incur expenditures or make political contributions during a reporting period may file a statement of no activity in lieu of a full report for that period in accordance with the reporting schedule in Subsection E of this section.

E. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed:

(1) by 11:59 p.m. on January 15 for all expenditures and political contributions made or incurred during the preceding year and not previously reported;

(2) within forty-eight hours for each separate expenditure made or incurred during a legislative session that was for five hundred dollars (\$500) or more;

(3) by 11:59 p.m. on the first Wednesday after the first Monday in May for all expenditures and political contributions made or incurred through the first Monday in May of the current year and not previously reported; and

(4) by 11:59 p.m. on the first Wednesday after the first Monday in October for all expenditures and political contributions made or incurred through the first Monday in October of the current year and not previously reported.

F. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

G. A lobbyist or lobbyist's employer shall obtain and preserve all records, accounts, bills, receipts, books, papers and documents necessary to substantiate the financial statements required to be made under the Lobbyist Regulation Act for a period of two years from the date of filing of the report containing such items. When the lobbyist is required under the terms of the lobbyist's employment to turn over any such records to the lobbyist's employer, responsibility for the preservation of them as required by this section and the filing of reports required by this section shall rest with the employer. Such records shall be made available to the secretary of state or attorney general upon written request.

H. A lobbyist's employer who also engages in lobbying shall also comply with the provisions of this section. A lobbyist and the lobbyist's employer shall coordinate their reporting to ensure that the contributions and expenditures that each have reported are not duplicative.

I. An organization of two or more persons, including an individual who makes any representation as being an organization, that within one calendar year expends funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying shall register with the secretary of state within forty-eight hours after expending two thousand five hundred dollars (\$2,500). Such registration shall indicate the name of the organization and the names, addresses and occupations of any of its principals, organizers or officers and shall include the name of any lobbyist or lobbyist's employer who is a member of the organization. Within fifteen days after a legislative session, the organization shall report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors, to the secretary of state on a prescribed form."

## **Chapter 13 Section 4 Laws 2016**

SECTION 4. Section 2-11-7 NMSA 1978 (being Laws 1977, Chapter 261, Section 7, as amended) is amended to read:

"2-11-7. REGISTRATION AND EXPENDITURE REPORT--PRESERVATION AS PUBLIC RECORD--ONLINE REPORTS.--

A. Each registration and expenditure report as required by the Lobbyist Regulation Act shall be archived and accessible on the secretary of state's lobbyist disclosure website for a period of at least ten years from the date of filing as a public record, open to public inspection at any reasonable time. Unless an action or prosecution is pending that requires preserving the report, it may be destroyed ten years after the date of filing.

B. Lobbyist registrations and expenditure reports shall be kept and maintained on the secretary of state's lobbyist disclosure website and shall be available in searchable and downloadable formats.

C. With respect to the secretary of state's lobbyist disclosure website, all items in the records shall be easily searchable, sortable and downloadable by the public to the extent technically practicable.

D. The secretary of state shall ensure that contributions reported by persons pursuant to the Lobbyist Regulation Act are reported in a manner that is nonduplicative and as consistent as practicable with the reporting requirements of the Campaign Reporting Act. To the extent possible, the electronic reporting system used for registration and reporting required by the Lobbyist Regulation Act shall be integrated with the electronic reporting system used for compliance with the Campaign Reporting Act.

E. Reporting individuals under the Campaign Reporting Act shall receive automatic electronic notice of the contributions to them reported by lobbyists and lobbyists' employers within twenty-four hours of the filing of each expenditure report."

## **Chapter 13 Section 5 Laws 2016**

SECTION 5. Section 2-11-8.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 23, as amended) is amended to read:

### **"2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND CONTRIBUTIONS.--**

A. No lobbyist may serve as a campaign chair, treasurer or fundraising chair for a candidate for the legislature or other state office.

B. It is unlawful during the prohibited period for any lobbyist or lobbyist's employer to contribute to or act as an agent or intermediary for political contributions to or arrange for the making of political contributions to the campaign funds of any statewide elected official or legislator or any candidate for those offices.

C. For purposes of this section, "prohibited period" is that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on:

(1) the day the session ends for:

(a) any statewide elected official or candidate for statewide office except the governor; and

(b) a legislator or any candidate for the legislature; and

(2) the twentieth day following the adjournment of the regular or special session for the governor or candidate for governor."

## **Chapter 13 Section 6 Laws 2016**

### SECTION 6. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 3, 5 and 6 of this act is July 1, 2016.

B. The effective date of the provisions of Sections 1, 2 and 4 of this act is December 15, 2017.

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House Bill 105, aa

Approved February 29, 2016

## **LAWS 2016, CHAPTER 14**

### AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CHANGING THE CRITERIA APPLICABLE TO RETAIL BUSINESS PROJECTS UNDERTAKEN THROUGH THE LOCAL ECONOMIC DEVELOPMENT ACT; CLARIFYING THAT A RESTAURANT OR LODGING ESTABLISHMENT IS A QUALIFYING ENTITY FOR PURPOSES OF THAT ACT.

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

## **Chapter 14 Section 1 Laws 2016**

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

"5-10-1. SHORT TITLE.--Chapter 5, Article 10 NMSA 1978 may be cited as the "Local Economic Development Act"."



## Chapter 14 Section 2 Laws 2016

SECTION 2. 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, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

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

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

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

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

(8) a cultural facility; and

(9) a retail business;

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, according to the most recent federal decennial census, of:

(1) ten thousand or less; or

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

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

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

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House Bill 139, aa

Approved February 29, 2016

## **LAWS 2016, CHAPTER 15**

AN ACT

RELATING TO TAXATION; CHANGING THE DUE DATE OF INCOME TAXES TO CONFORM WITH DUE DATES PURSUANT TO FEDERAL LAW.

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

### **Chapter 15 Section 1 Laws 2016**

SECTION 1. Section 7-2-12 NMSA 1978 (being Laws 1965, Chapter 202, Section 10, as amended) is amended to read:

"7-2-12. TAXPAYER RETURNS--PAYMENT OF TAX.--

A. Every resident of this state and every individual deriving income from any business transaction, property or employment within this state and not exempt from tax under the Income Tax Act who is required by the laws of the United States to file a federal income tax return shall file a complete tax return with the department in form and content as prescribed by the secretary. Except as provided in Subsection B of this section, a resident or any individual who is required by the provisions of the Income Tax Act to file a return or pay a tax shall, on or before the due date of the resident's or individual's federal income tax return for the taxable year, file the return and pay the tax imposed for that year.

B. When the department approves electronic media for use by a taxpayer whose taxable year is a calendar year, the taxpayer who uses electronic media for both filing and payment must submit the required return and the tax imposed on residents and individuals under the Income Tax Act on or before the last day of the month in which the resident's or individual's federal income tax return is originally due for the taxable year. The due date provided in this subsection does not apply to residents or

individuals who have received a filing extension from New Mexico or an automatic extension from the federal internal revenue service for the same taxable year."

## **Chapter 15 Section 2 Laws 2016**

SECTION 2. Section 7-2A-9 NMSA 1978 (being Laws 1981, Chapter 37, Section 42, as amended) is amended to read:

### **"7-2A-9. TAXPAYER RETURNS--PAYMENT OF TAX.--**

A. Every corporation deriving income from any business transaction, property or employment within this state, that is not exempt from tax under the Corporate Income and Franchise Tax Act and that is required by the laws of the United States to file a federal income tax return shall file a complete tax return with the department in form and content as prescribed by the secretary. Except as provided in Subsection C of this section, a corporation that is required by the provisions of the Corporate Income and Franchise Tax Act to file a return or pay a tax shall, on or before the due date of the corporation's federal corporate income tax return for the taxable year, file the return and pay the tax imposed for that year.

B. Every domestic or foreign corporation that is not exempt from tax under the Corporate Income and Franchise Tax Act, that is employed or engaged in the transaction of business in, into or from this state or that derives any income from property or employment within this state and every domestic or foreign corporation, regardless of whether it is engaged in active business, that has or exercises its corporate franchise in this state and that is not exempt from tax under the Corporate Income and Franchise Tax Act shall file a return in the form and content as prescribed by the secretary and pay the tax levied pursuant to Subsection B of Section 7-2A-3 NMSA 1978 in the amount for each corporation as specified in Section 7-2A-5.1 NMSA 1978. Returns and payment of tax for corporate franchise tax for a taxable year shall be filed and paid on the date specified in Subsection A or C of this section for payment of corporate income tax for the preceding taxable year.

C. A corporation that is required by the provisions of the Corporate Income and Franchise Tax Act to file a return or pay a tax and that is approved by the department to use electronic media for filing and paying taxes shall, if using electronic media for filing and paying taxes, file the return and pay the tax levied for that taxable year on or before the last day of the month in which the corporation's federal corporate income tax return is originally due for the taxable year. The due date provided by this subsection does not apply to corporations that have received a filing extension from New Mexico or an extension from the federal internal revenue service for the same taxable year."

## **Chapter 15 Section 3 Laws 2016**

SECTION 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2016.

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House Bill 249

Approved February 29, 2016

## **LAWS 2016, CHAPTER 16**

### **AN ACT**

RELATING TO DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; INCREASING THE PENALTY FOR HOMICIDE BY VEHICLE WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS; INCREASING PENALTIES AND MANDATORY PERIODS OF INCARCERATION FOR EIGHTH OR SUBSEQUENT OFFENSES; PROVIDING THAT AN EIGHTH OR SUBSEQUENT OFFENSE IS A SECOND DEGREE FELONY.

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

### **Chapter 16 Section 1 Laws 2016**

SECTION 1. Section 66-8-101 NMSA 1978 (being Laws 1978, Chapter 35, Section 509, as amended) is amended to read:

"66-8-101. HOMICIDE BY VEHICLE--GREAT BODILY HARM BY VEHICLE.--

A. Homicide by vehicle is the killing of a human being in the unlawful operation of a motor vehicle.

B. Great bodily harm by vehicle is the injuring of a human being, to the extent defined in Section 30-1-12 NMSA 1978, in the unlawful operation of a motor vehicle.

C. A person who commits homicide by vehicle while under the influence of intoxicating liquor or while under the influence of any drug is guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A person who commits homicide by vehicle while violating Section 66-8-113 NMSA 1978 is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978, provided that violation of speeding laws as set forth in the Motor Vehicle Code shall not per se be a basis for violation of Section 66-8-113 NMSA 1978.

E. A person who commits great bodily harm by vehicle while under the influence of intoxicating liquor, while under the influence of any drug or while violating Section 66-8-113 NMSA 1978 is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978, provided that violation of speeding laws as set forth in the Motor Vehicle Code shall not per se be a basis for violation of Section 66-8-113 NMSA 1978.

F. A person who commits homicide by vehicle or great bodily harm by vehicle while under the influence of intoxicating liquor or while under the influence of any drug, as provided in Subsection C or E of this section, and who has incurred a prior DWI conviction within ten years of the occurrence for which the person is being sentenced under this section shall have the person's basic sentence increased by four years for each prior DWI conviction.

G. For the purposes of this section, "prior DWI conviction" means:

(1) a prior conviction under Section 66-8-102 NMSA 1978; or

(2) a prior conviction in New Mexico or any other jurisdiction, territory or possession of the United States, including a tribal jurisdiction, when the criminal act is driving under the influence of alcohol or drugs.

H. A person who willfully operates a motor vehicle in violation of Subsection C of Section 30-22-1 NMSA 1978 and directly or indirectly causes the death of or great bodily harm to a human being is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

## **Chapter 16 Section 2 Laws 2016**

SECTION 2. Section 66-8-102 NMSA 1978 (being Laws 1953, Chapter 139, Section 54, as amended) is amended to read:

"66-8-102. DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--AGGRAVATED DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS--PENALTIES.--

A. It is unlawful for a person who is under the influence of intoxicating liquor to drive a vehicle within this state.

B. It is unlawful for a person who is under the influence of any drug to a degree that renders the person incapable of safely driving a vehicle to drive a vehicle within this state.

C. It is unlawful for:

(1) a person to drive a vehicle in this state if the person has an alcohol concentration of eight one hundredths or more in the person's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle; or

(2) a person to drive a commercial motor vehicle in this state if the person has an alcohol concentration of four one hundredths or more in the person's blood or breath within three hours of driving the commercial motor vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle.

D. Aggravated driving under the influence of intoxicating liquor or drugs consists of:

(1) driving a vehicle in this state with an alcohol concentration of sixteen one hundredths or more in the driver's blood or breath within three hours of driving the vehicle and the alcohol concentration results from alcohol consumed before or while driving the vehicle;

(2) causing bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or

(3) refusing to submit to chemical testing, as provided for in the Implied Consent Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, the driver was under the influence of intoxicating liquor or drugs.

E. A first conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than ninety days or by a fine of not more than five hundred dollars (\$500), or both; provided that if the sentence is suspended in whole or in part or deferred, the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours of community service. In addition, the offender may be required to pay a fine of three hundred dollars (\$300). The offender shall be ordered by the court to participate in and complete a screening program described in Subsection L of this section and to attend a driver rehabilitation program for alcohol or drugs, also known as a "DWI school", approved by the bureau and also may be required to participate in other rehabilitative services as the court shall determine to be necessary. In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails to complete, within a time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or fails to comply with any other condition of probation, the offender shall be sentenced to not less than an additional forty-eight consecutive hours in jail. Any jail sentence imposed pursuant to this subsection for failure to complete, within a

time specified by the court, any community service, screening program, treatment program or DWI school ordered by the court or for aggravated driving under the influence of intoxicating liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction pursuant to this section, any time spent in jail for the offense prior to the conviction for that offense shall be credited to any term of imprisonment fixed by the court. A deferred sentence pursuant to this subsection shall be considered a first conviction for the purpose of determining subsequent convictions.

F. A second or third conviction pursuant to this section shall be punished, notwithstanding the provisions of Section 31-18-13 NMSA 1978, by imprisonment for not more than three hundred sixty-four days or by a fine of not more than one thousand dollars (\$1,000), or both; provided that if the sentence is suspended in whole or in part, the period of probation may extend beyond one year but shall not exceed five years. Notwithstanding any provision of law to the contrary for suspension or deferment of execution of a sentence:

(1) upon a second conviction, an offender shall be sentenced to a jail term of not less than ninety-six consecutive hours, not less than forty-eight hours of community service and a fine of five hundred dollars (\$500). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive hours. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional seven consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement; and

(2) upon a third conviction, an offender shall be sentenced to a jail term of not less than thirty consecutive days, not less than ninety-six hours of community service and a fine of seven hundred fifty dollars (\$750). In addition to those penalties, when an offender commits aggravated driving under the influence of intoxicating liquor or drugs, the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an offender fails to complete, within a time specified by the court, any community service, screening program or treatment program ordered by the court, the offender shall be sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

G. Upon a fourth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of eighteen months, six months of which shall not be suspended, deferred or taken under advisement.

H. Upon a fifth conviction pursuant to this section, an offender is guilty of a fourth degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA



1978, shall be sentenced to a term of imprisonment of two years, one year of which shall not be suspended, deferred or taken under advisement.

I. Upon a sixth conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of thirty months, eighteen months of which shall not be suspended, deferred or taken under advisement.

J. Upon a seventh conviction pursuant to this section, an offender is guilty of a third degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of three years, two years of which shall not be suspended, deferred or taken under advisement.

K. Upon an eighth or subsequent conviction pursuant to this section, an offender is guilty of a second degree felony and, notwithstanding the provisions of Section 31-18-15 NMSA 1978, shall be sentenced to a term of imprisonment of twelve years, ten years of which shall not be suspended, deferred or taken under advisement.

L. Upon any conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court, an alcohol or drug abuse screening program approved by the department of finance and administration and, if necessary, a treatment program approved by the court. The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

M. Upon a second or third conviction pursuant to this section, an offender shall be required to participate in and complete, within a time specified by the court:

(1) not less than a twenty-eight-day inpatient, residential or in-custody substance abuse treatment program approved by the court;

(2) not less than a ninety-day outpatient treatment program approved by the court;

(3) a drug court program approved by the court; or

(4) any other substance abuse treatment program approved by the court.

The requirement imposed pursuant to this subsection shall not be suspended, deferred or taken under advisement.

N. Upon a felony conviction pursuant to this section, the corrections department shall provide substance abuse counseling and treatment to the offender in its custody. While the offender is on probation or parole under its supervision, the corrections department shall also provide substance abuse counseling and treatment to

the offender or shall require the offender to obtain substance abuse counseling and treatment.

O. Upon a conviction pursuant to this section, an offender shall be required to obtain an ignition interlock license and have an ignition interlock device installed and operating on all motor vehicles driven by the offender, pursuant to rules adopted by the bureau. Unless determined by the bureau to be indigent, the offender shall pay all costs associated with having an ignition interlock device installed on the appropriate motor vehicles. The offender shall operate only those vehicles equipped with ignition interlock devices for:

(1) a period of one year, for a first offender;

(2) a period of two years, for a second conviction pursuant to this section;

(3) a period of three years, for a third conviction pursuant to this section; or

(4) the remainder of the offender's life, for a fourth or subsequent conviction pursuant to this section.

P. Five years from the date of conviction and every five years thereafter, a fourth or subsequent offender may apply to a district court for removal of the ignition interlock device requirement provided in this section and for restoration of a driver's license. A district court may, for good cause shown, remove the ignition interlock device requirement and order restoration of the license; provided that the offender has not been subsequently convicted of driving a motor vehicle under the influence of intoxicating liquor or drugs. Good cause may include an alcohol screening and proof from the interlock vendor that the person has not had violations of the interlock device.

Q. An offender who obtains an ignition interlock license and installs an ignition interlock device prior to conviction shall be given credit at sentencing for the time period the ignition interlock device has been in use.

R. In the case of a first, second or third offense under this section, the magistrate court has concurrent jurisdiction with district courts to try the offender.

S. A conviction pursuant to a municipal or county ordinance in New Mexico or a law of any other jurisdiction, territory or possession of the United States or of a tribe, when that ordinance or law is equivalent to New Mexico law for driving under the influence of intoxicating liquor or drugs, and prescribes penalties for driving under the influence of intoxicating liquor or drugs, shall be deemed to be a conviction pursuant to this section for purposes of determining whether a conviction is a second or subsequent conviction.

T. In addition to any other fine or fee that may be imposed pursuant to the conviction or other disposition of the offense under this section, the court may order the offender to pay the costs of any court-ordered screening and treatment programs.

U. With respect to this section and notwithstanding any provision of law to the contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender violates any condition of probation, the court may impose any sentence that the court could have originally imposed and credit shall not be given for time served by the offender on probation.

V. As used in this section:

(1) "bodily injury" means an injury to a person that is not likely to cause death or great bodily harm to the person, but does cause painful temporary disfigurement or temporary loss or impairment of the functions of any member or organ of the person's body; and

(2) "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(b) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials, which requires the motor vehicle to be placarded under applicable law."

## **Chapter 16 Section 3 Laws 2016**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 118, aa

Approved March 1, 2016

# **LAWS 2016, CHAPTER 17**

AN ACT

RELATING TO HEALTH EDUCATION; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE TO REQUIRE THE PUBLIC EDUCATION DEPARTMENT TO ADD LIFESAVING SKILLS TRAINING TO HEALTH EDUCATION COURSES.

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

## **Chapter 17 Section 1 Laws 2016**

SECTION 1. Section 22-13-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 57, as amended) is amended to read:

"22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS REQUIRED--ACCREDITATION.--

A. The department shall require public schools to address department-approved academic content and performance standards when instructing in specific department-required subject areas as provided in this section. A public school or school district failing to meet these minimum requirements shall not be accredited by the department.

B. All kindergarten through third grade classes shall provide daily instruction in reading and language arts skills, including phonemic awareness, phonics and comprehension, and in mathematics. Students in kindergarten and first grades shall be screened and monitored for progress in reading and language arts skills, and students in second grade shall take diagnostic tests on reading and language arts skills.

C. All first, second and third grade classes shall provide instruction in art, music and a language other than English, and instruction that meets content and performance standards shall be provided in science, social studies, physical education and health education.

D. In fourth through eighth grades, instruction that meets academic content and performance standards shall be provided in the following subject areas:

(1) reading and language arts skills, with an emphasis on writing and editing for at least one year and an emphasis on grammar and writing for at least one year;

(2) mathematics;

(3) language other than English;

- (4) communication skills;
- (5) science;
- (6) art;
- (7) music;
- (8) social studies;
- (9) New Mexico history;
- (10) United States history;
- (11) geography;
- (12) physical education; and
- (13) health education.

E. Beginning with the 2008-2009 school year, in eighth grade, algebra 1 shall be offered in regular classroom settings or through online courses or agreements with high schools.

F. In fourth through eighth grades, school districts shall offer electives that contribute to academic growth and skill development and provide career and technical education. In sixth through eighth grades, media literacy may be offered as an elective.

G. In ninth through twelfth grades, instruction that meets academic content and performance standards shall be provided in health education.

H. All health education courses shall include:

(1) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective; and

(2) lifesaving skills training that follows nationally recognized guidelines for hands-on psychomotor skills cardiopulmonary resuscitation training. Students shall be trained to recognize the signs of a heart attack, use an automated external defibrillator and perform the Heimlich maneuver for choking victims. The secretary shall promulgate rules to provide for the:

(a) use of the following instructors for the training provided pursuant to this paragraph: 1) school nurses, health teachers and athletic department

personnel as instructors; and 2) any qualified persons volunteering to provide training at no cost to the school district that the school district determines to be eligible to offer instruction pursuant to this paragraph; and

(b) approval of training and instructional materials related to the training established pursuant to this paragraph in both English and Spanish."

## **Chapter 17 Section 2 Laws 2016**

SECTION 2. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended) is amended to read:

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

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

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

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

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

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

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

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

E. The secretary shall:

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

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

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

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

F. Once a student has entered ninth grade, the graduation requirements shall not be changed for that student from the requirements specified in the law at the time the student entered ninth grade.

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

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

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

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

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

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

I. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements, and districts may choose to allow students who successfully complete an industry-recognized credential, certificate or degree to receive additional weight in the calculation of the student's grade point average.

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

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

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

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

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

(5) one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers' training



corps or interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity;

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

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

K. For students entering the eighth grade in the 2012-2013 school year, a course in health education is required prior to graduation. Health education may be required in either middle school or high school, as determined by the school district. Each school district shall submit to the department by the beginning of the 2011-2012 school year a health education implementation plan for the 2012-2013 and subsequent school years, including in which grade health education will be required and how the course aligns with department content and performance standards. Health education courses shall include:

(1) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective; and

(2) lifesaving skills training that follows nationally recognized guidelines for hands-on psychomotor skills cardiopulmonary resuscitation training. Students shall be trained to recognize the signs of a heart attack, use an automated external defibrillator and perform the Heimlich maneuver for choking victims. The secretary shall promulgate rules to provide for the:

(a) use of the following instructors for the training provided pursuant to this paragraph: 1) school nurses, health teachers and athletic department personnel as instructors; and 2) any qualified persons volunteering to provide training at no cost to the school district that the school district determines to be eligible to offer instruction pursuant to this paragraph; and

(b) approval of training and instructional materials related to the training established pursuant to this paragraph in both English and Spanish.

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

M. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and

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

N. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirements of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

O. As used in this section:

(1) "career and technical education", sometimes referred to as "vocational education", means organized programs offering a sequence of courses, including technical education and applied technology education, that are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree;

(2) "career and technical education course" means a course with content that provides technical knowledge, skills and competency-based applied learning and that aligns with educational standards and expectations as defined in rule;

(3) "career cluster" means a grouping of occupations in industry sectors based on recognized commonalities that provide an organizing tool for developing instruction within the educational system;

(4) "career pathways" means a sub-grouping used as an organizing tool for curriculum design and instruction of occupations and career specialities that share a set of common knowledge and skills for career success;

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

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

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

(a) advanced placement or honors courses;

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

(c) distance learning courses;

(d) career-technical courses; and

(e) pre-apprenticeship programs.

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

## **Chapter 17 Section 3 Laws 2016**

SECTION 3. TEMPORARY PROVISION--PSYCHOMOTOR CARDIOPULMONARY SKILLS TRAINING--RULEMAKING.--By December 31, 2016, the secretary of public education shall adopt and promulgate rules to implement the provisions of Sections 1 and 2 of this act.

## **Chapter 17 Section 4 Laws 2016**

SECTION 4. APPLICABILITY.--Lifesaving skills training pursuant to Paragraph (2) of Subsection H of Section 22-13-1 NMSA 1978 and Paragraph (2) of Subsection K of Section 22-13-1.1 NMSA 1978 shall not be required for students in grades nine through twelve who are enrolled in a virtual charter school.

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HHC/House Bill 104, aa

Approved March 1, 2016

## **LAWS 2016, CHAPTER 18**

AN ACT

RELATING TO HEALTH EDUCATION; AMENDING SECTIONS OF THE PUBLIC SCHOOL CODE TO REQUIRE THE PUBLIC EDUCATION DEPARTMENT TO ADD LIFESAVING SKILLS TRAINING TO HEALTH EDUCATION COURSES.

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

### **Chapter 18 Section 1 Laws 2016**

SECTION 1. Section 22-13-1 NMSA 1978 (being Laws 2003, Chapter 153, Section 57, as amended) is amended to read:

"22-13-1. SUBJECT AREAS--MINIMUM INSTRUCTIONAL AREAS REQUIRED--ACCREDITATION.--

A. The department shall require public schools to address department-approved academic content and performance standards when instructing in specific department-required subject areas as provided in this section. A public school or school district failing to meet these minimum requirements shall not be accredited by the department.

B. All kindergarten through third grade classes shall provide daily instruction in reading and language arts skills, including phonemic awareness, phonics and comprehension, and in mathematics. Students in kindergarten and first grades shall be screened and monitored for progress in reading and language arts skills, and students in second grade shall take diagnostic tests on reading and language arts skills.

C. All first, second and third grade classes shall provide instruction in art, music and a language other than English, and instruction that meets content and performance standards shall be provided in science, social studies, physical education and health education.

D. In fourth through eighth grades, instruction that meets academic content and performance standards shall be provided in the following subject areas:

(1) reading and language arts skills, with an emphasis on writing and editing for at least one year and an emphasis on grammar and writing for at least one year;

(2) mathematics;

(3) language other than English;

(4) communication skills;

(5) science;

(6) art;

(7) music;

(8) social studies;

(9) New Mexico history;

(10) United States history;

(11) geography;

(12) physical education; and

(13) health education.

E. Beginning with the 2008-2009 school year, in eighth grade, algebra 1 shall be offered in regular classroom settings or through online courses or agreements with high schools.

F. In fourth through eighth grades, school districts shall offer electives that contribute to academic growth and skill development and provide career and technical education. In sixth through eighth grades, media literacy may be offered as an elective.

G. In ninth through twelfth grades, instruction that meets academic content and performance standards shall be provided in health education.

H. All health education courses shall include:

(1) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective; and

(2) lifesaving skills training that follows nationally recognized guidelines for hands-on psychomotor skills cardiopulmonary resuscitation training. Students shall be trained to recognize the signs of a heart attack, use an automated external defibrillator and perform the Heimlich maneuver for choking victims. The secretary shall promulgate rules to provide for the:

(a) use of the following instructors for the training provided pursuant to this paragraph: 1) school nurses, health teachers and athletic department personnel as instructors; and 2) any qualified persons volunteering to provide training at no cost to the school district that the school district determines to be eligible to offer instruction pursuant to this paragraph; and

(b) approval of training and instructional materials related to the training established pursuant to this paragraph in both English and Spanish."

## **Chapter 18 Section 2 Laws 2016**

SECTION 2. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended) is amended to read:

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

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

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

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

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

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

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

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

E. The secretary shall:

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

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

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

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

F. Once a student has entered ninth grade, the graduation requirements shall not be changed for that student from the requirements specified in the law at the time the student entered ninth grade.

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

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

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

(3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;

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

(5) one unit in physical education;

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

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

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

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

I. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain graduation requirements, and districts may choose to allow students who successfully complete an industry-recognized credential, certificate or degree to receive additional weight in the calculation of the student's grade point average.

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

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

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

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



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

(5) one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers' training corps or interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity;

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

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

K. For students entering the eighth grade in the 2012-2013 school year, a course in health education is required prior to graduation. Health education may be required in either middle school or high school, as determined by the school district. Each school district shall submit to the department by the beginning of the 2011-2012 school year a health education implementation plan for the 2012-2013 and subsequent school years, including in which grade health education will be required and how the course aligns with department content and performance standards. Health education courses shall include:

(1) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective; and

(2) lifesaving skills training that follows nationally recognized guidelines for hands-on psychomotor skills cardiopulmonary resuscitation training. Students shall be trained to recognize the signs of a heart attack, use an automated external defibrillator and perform the Heimlich maneuver for choking victims. The secretary shall promulgate rules to provide for the:

(a) use of the following instructors for the training provided pursuant to this paragraph: 1) school nurses, health teachers and athletic department personnel as instructors; and 2) any qualified persons volunteering to provide training at no cost to the school district that the school district determines to be eligible to offer instruction pursuant to this paragraph; and

(b) approval of training and instructional materials related to the training established pursuant to this paragraph in both English and Spanish.

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

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

N. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirements of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

O. As used in this section:

(1) "career and technical education", sometimes referred to as "vocational education", means organized programs offering a sequence of courses, including technical education and applied technology education, that are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree;

(2) "career and technical education course" means a course with content that provides technical knowledge, skills and competency-based applied learning and that aligns with educational standards and expectations as defined in rule;

(3) "career cluster" means a grouping of occupations in industry sectors based on recognized commonalities that provide an organizing tool for developing instruction within the educational system;

(4) "career pathways" means a sub-grouping used as an organizing tool for curriculum design and instruction of occupations and career specialities that share a set of common knowledge and skills for career success;

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

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

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

(a) advanced placement or honors courses;

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

(c) distance learning courses;

(d) career-technical courses; and

(e) pre-apprenticeship programs.

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

## **Chapter 18 Section 3 Laws 2016**

SECTION 3. TEMPORARY PROVISION--PSYCHOMOTOR  
CARDIOPULMONARY SKILLS TRAINING--RULEMAKING.--By December 31, 2016,

the secretary of public education shall adopt and promulgate rules to implement the provisions of Sections 1 and 2 of this act.

## **Chapter 18 Section 4 Laws 2016**

SECTION 4. APPLICABILITY.--Lifesaving skills training pursuant to Paragraph (2) of Subsection H of Section 22-13-1 NMSA 1978 and Paragraph (2) of Subsection K of Section 22-13-1.1 NMSA 1978 shall not be required for students in grades nine through twelve who are enrolled in a virtual charter school.

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SEC/Senate Bill 1, aa

Approved March 1, 2016

## **LAWS 2016, CHAPTER 19**

AN ACT

RELATING TO LICENSING; PROVIDING FOR EXPEDITED OCCUPATIONAL AND PROFESSIONAL LICENSING OF APPLICANTS WHO ARE LICENSEES IN GOOD STANDING IN ANOTHER JURISDICTION IN THE UNITED STATES.

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

## **Chapter 19 Section 1 Laws 2016**

SECTION 1. A new section of the Uniform Licensing Act is enacted to read:

"EXPEDITED LICENSURE--ISSUANCE.--

A. A state agency, board or commission that issues an occupational or professional license pursuant to Chapter 61, Articles 2 through 14E, 24, 24A and 31 NMSA 1978 shall, as soon as practicable after a person 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:

(a) holds a license that is current and in good standing issued by another jurisdiction in 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 14E, 24, 24A and 31 NMSA 1978; and

(b) has provided fingerprints and other information necessary for a state and national criminal background check, if required.

B. A license issued pursuant to this section is not a provisional license and confers the same rights, privileges and responsibilities as a license issued pursuant to Chapter 61, Articles 2 through 14E, 24, 24A and 31 NMSA 1978."

## **Chapter 19 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 105, aa

Approved March 1, 2016

## **LAWS 2016, CHAPTER 20**

AN ACT

RELATING TO HEALTH INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REFINE THE REQUIREMENTS FOR CREDENTIALING OF HEALTH CARE PROVIDERS BY HEALTH INSURERS; MAKING REQUIREMENTS APPLICABLE TO OUT-OF-STATE PROVIDERS; ENSURING THAT ALL ELIGIBLE PROVIDERS RECEIVE PROMPT PAYMENT FOR CLEAN CLAIMS AND INTEREST ON UNPAID CLAIMS.

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

## **Chapter 20 Section 1 Laws 2016**

SECTION 1. Section 59A-16-21.1 NMSA 1978 (being Laws 2000, Chapter 58, Section 1, as amended) is amended to read:

"59A-16-21.1. HEALTH PLAN REQUIREMENTS.--

A. As used in this section:

(1) "clean claim" means a manually or electronically submitted claim from an eligible provider that:

(a) contains substantially all the required data elements necessary for accurate adjudication without the need for additional information from outside of the health plan's system;

(b) is not materially deficient or improper, including lacking substantiating documentation currently required by the health plan; and

(c) has no particular or unusual circumstances requiring special treatment that prevent payment from being made by the health plan within thirty days of the date of receipt if submitted electronically or forty-five days if submitted manually;

(2) "eligible provider" means an individual or entity that:

(a) is a participating provider;

(b) a health plan has credentialed after assessing and verifying the provider's qualifications; or

(c) a health plan is obligated to reimburse for claims in accordance with the provisions of: 1) Subsection G of Section 59A-22-54 NMSA 1978; 2) Subsection G of Section 59A-23-14 NMSA 1978; 3) Subsection G of Section 59A-46-54 NMSA 1978; or 4) Subsection G of Section 59A-47-49 NMSA 1978;

(3) "health plan" means one of the following entities or its agent: health maintenance organization, nonprofit health care plan, provider service network or third-party payer; and

(4) "participating provider" means an individual or entity participating in a health plan's provider network.

B. A health plan shall provide for payment of interest on the plan's liability at the rate of one and one-half percent a month on:

(1) the amount of a clean claim electronically submitted by the eligible provider and not paid within thirty days of the date of receipt; and

(2) the amount of a clean claim manually submitted by the eligible provider and not paid within forty-five days of the date of receipt.

C. If a health plan is unable to determine liability for or refuses to pay a claim of an eligible provider within the times specified in Subsection B of this section, the health plan shall make a good-faith effort to notify the eligible provider by fax,

electronic or other written communication within 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. The office of superintendent of insurance, with input from interested parties, including health plans and eligible providers, shall promulgate rules to require health plans to provide:

- (1) timely eligible provider access to claims status information;
- (2) processes and procedures for submitting claims and changes in coding for claims;
- (3) standard claims forms; and
- (4) uniform calculation of interest."

## **Chapter 20 Section 2 Laws 2016**

SECTION 2. Section 59A-22-54 NMSA 1978 (being Laws 2015, Chapter 111, Section 1) is amended to read:

"59A-22-54. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require an insurer to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that an insurer or an insurer's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application.

G. An insurer shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date on which the insurer received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (2) of Subsection F of this section;

(2) the insurer has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection F of this section;

(3) the provider has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the insurer's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the insurer to provide services at specified



rates of reimbursement shall be paid by the insurer in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond forty-five days after application.

K. An insurer shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the insurer received the provider's complete credentialing application.

L. As used in this section:

(1) "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider; and

(2) "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in a state."

## **Chapter 20 Section 3 Laws 2016**

SECTION 3. Section 59A-23-14 NMSA 1978 (being Laws 2015, Chapter 111, Section 2) is amended to read:

"59A-23-14. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require an insurer to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that an insurer or an insurer's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application.

G. An insurer shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date on which the insurer received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (2) of Subsection F of this section;

(2) the insurer has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection F of this section;

(3) the provider has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the insurer's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond forty-five days after application.

K. An insurer shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the insurer received the provider's complete credentialing application.

L. As used in this section:

(1) "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider; and

(2) "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in the state."

## **Chapter 20 Section 4 Laws 2016**

SECTION 4. Section 59A-46-54 NMSA 1978 (being Laws 2015, Chapter 111, Section 4) is amended to read:

"59A-46-54. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. A carrier shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require a carrier to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that a carrier or a carrier's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the carrier requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application.

G. A carrier shall reimburse a provider for covered health care services for any claims from the provider that the carrier receives with a date of service more than forty-five calendar days after the date on which the carrier received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the carrier has requested in writing within the time frame established in Paragraph (2) of Subsection F of this section;

(2) the carrier has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection F of this section;

(3) the provider has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the carrier to provide services at specified rates of reimbursement shall be paid by the carrier in accordance with the carrier's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the carrier to provide services at specified rates of reimbursement shall be paid by the carrier in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond forty-five days after application.

K. A carrier shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the carrier's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the carrier received the provider's complete credentialing application."

## **Chapter 20 Section 5 Laws 2016**

SECTION 5. Section 59A-47-49 NMSA 1978 (being Laws 2015, Chapter 111, Section 6) is amended to read:

"59A-47-49. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. A health care plan shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require a health care plan to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that a health care plan or a health care plan's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within forty-five calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application; and

(2) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application.

G. A health care plan shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than forty-five calendar days after the date on which the health care plan received a complete credentialing application for that provider; provided that:

(1) the provider has submitted a complete credentialing application and any supporting documentation that the health care plan has requested in writing within the time frame established in Paragraph (2) of Subsection F of this section;

(2) the health care plan has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) of Subsection F of this section;

(3) the provider has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(4) the provider has professional liability insurance or is covered under the Medical Malpractice Act.

H. A provider who was not, at the time services were rendered, employed by a practice or group that has contracted with the health care plan to provide services at specified rates of reimbursement shall be paid by the health care plan in accordance with the health care plan's standard reimbursement rate.

I. A provider who was, at the time services were rendered, employed by a practice or group that has contracted with the health care plan to provide services at specified rates of reimbursement shall be paid by the health care plan in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond forty-five days after application.

K. A health care plan shall reimburse a provider pursuant Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the health care plan received the provider's complete credentialing application."

## **Chapter 20 Section 6 Laws 2016**

SECTION 6. TEMPORARY PROVISION.--The superintendent of insurance shall promulgate rules to implement the provisions of this act no later than September 1, 2016.

## **Chapter 20 Section 7 Laws 2016**

SECTION 7. APPLICABILITY.--

A. The provisions of Section 1 of this act apply to claims submitted for payment on or after January 1, 2017.

B. The provisions of Sections 2 through 5 of this act apply to applications for provider credentialing made on or after January 1, 2017.

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SPAC/Senate Bill 234

Approved March 1, 2016

# **LAWS 2016, CHAPTER 21**

AN ACT

RELATING TO HIGHER EDUCATION; CLARIFYING DEFINITIONS AND OTHER PROVISIONS OF THE LEGISLATIVE LOTTERY TUITION SCHOLARSHIP ACT.

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

## **Chapter 21 Section 1 Laws 2016**

SECTION 1. Section 21-21N-2 NMSA 1978 (being Laws 2014, Chapter 80, Section 2) is amended to read:

"21-21N-2. DEFINITIONS.--As used in the Legislative Lottery Tuition Scholarship Act:

A. "community college" means a branch community college of a four-year state educational institution, a two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively;

B. "comprehensive institution" means eastern New Mexico university, western New Mexico university, New Mexico highlands university or northern New Mexico college;

C. "department" means the higher education department;

D. "full time" means fifteen or more credit hours each semester of the regular academic year in state educational institutions and twelve or more credit hours each semester of the regular academic year in community colleges or for legacy students in any program semester;

E. "fund" means the lottery tuition fund;

F. "legacy student" means a full-time resident student who has received for three or more program semesters by the end of fiscal year 2014 the legislative lottery scholarship awarded pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 prior to the enactment of the Legislative Lottery Tuition Scholarship Act;

G. "program semesters" means those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution;

H. "public post-secondary educational institution" means a four-year state educational institution or a community college;



I. "qualified student" means a full-time student who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who:

(1) either:

(a) immediately upon graduation or receipt of a credential was accepted for entrance to and attended a public post-secondary educational institution; or

(b) within one hundred twenty days of completion of a high school curriculum or receipt of a high school equivalency credential began service in the United States armed forces and within one year of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(2) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment;

J. "research institution" means the university of New Mexico, New Mexico state university or New Mexico institute of mining and technology;

K. "state educational institution" means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico; and

L. "tuition scholarship" means the scholarship that provides tuition assistance per program semester for a qualified student or legacy student attending a public post-secondary educational institution."

## **Chapter 21 Section 2 Laws 2016**

SECTION 2. Section 21-21N-3 NMSA 1978 (being Laws 2014, Chapter 80, Section 3) is amended to read:

"21-21N-3. TUITION SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

A. To the extent that funds are made available by the legislature from the fund, the boards of regents or governing bodies of public post-secondary educational institutions shall award tuition scholarships in department-approved amounts to qualified students and legacy students attending their respective public post-secondary educational institutions.

B. Beginning in fiscal year 2015:

(1) a legacy student is eligible to receive a tuition scholarship until the total number of program semesters for which the legislative lottery scholarship is received pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the Legislative Lottery Tuition Scholarship Act reaches eight; provided that the legacy student maintains residency in New Mexico, maintains a grade point average of 2.5 or higher on a 4.0 scale and completes twelve or more credit hours per program semester; and

(2) a qualified student who is not a legacy student is eligible to receive the tuition scholarship for a maximum of seven program semesters and in an amount determined pursuant to the provisions of Section 21-21N-4 NMSA 1978.

C. Except as otherwise provided in this section, a tuition scholarship may be awarded to a qualified student who:

(1) maintains residency in New Mexico;

(2) maintains a grade point average of 2.5 or higher on a 4.0 scale;  
and

(3) completes:

(a) for a student attending a four-year public post-secondary educational institution, fifteen or more credit hours per program semester; and

(b) for a student attending a two-year public post-secondary educational institution, twelve or more credit hours per program semester.

D. For students with disabilities who may require accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive program semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester, and in no case shall eligibility extend beyond fourteen consecutive program semesters."

## **Chapter 21 Section 3 Laws 2016**

SECTION 3. Section 21-21N-4 NMSA 1978 (being Laws 2014, Chapter 80, Section 4) is amended to read:

"21-21N-4. TUITION SCHOLARSHIP AMOUNT--FUND.--

A. Prior to June 1 of each year, based on the amount appropriated by the legislature from the fund and on the projected enrollment at all public post-secondary educational institutions, the department shall:

(1) determine the total amount of money available for all tuition scholarships for qualified students;

(2) determine the uniform percentage by which to calculate tuition scholarships for qualified students attending any public post-secondary educational institution; and

(3) notify all public post-secondary educational institutions of the determinations made pursuant to Paragraphs (1) and (2) of this subsection.

B. In determining distribution and award amounts for the tuition scholarship program, the department shall:

(1) maintain the minimum fund balance pursuant to Section 21-21N-5 NMSA 1978;

(2) distribute to all public post-secondary educational institutions an amount not to exceed the remaining balance in the fund; and

(3) subject to the provisions of Paragraphs (1) and (2) of this subsection, distribute to each public post-secondary educational institution an amount based on:

(a) the projected enrollment at each four-year public post-secondary educational institution of qualified students in their first through seventh program semesters, including qualified students in their fourth through seventh program semesters who transferred from community colleges;

(b) the projected enrollment at each community college of qualified students in their first through third program semesters; and

(c) a uniform percentage of the average of in-state tuition costs charged by: 1) research institutions for each research institution; 2) comprehensive institutions for each comprehensive institution; and 3) community colleges for each community college, except that the uniform percentage for a two-year state educational institution shall be based on the uniform percentage for community colleges."

Approved March 1, 2016

## **LAWS 2016, CHAPTER 22**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
PROVIDING FLEXIBILITY TO SCHOOL DISTRICTS TO MEET FUNDING  
CONSTRAINTS; REPEALING THE PHASE-IN OF REQUIREMENTS AFTER THE  
2010 ECONOMIC DOWNTURN WAIVERS.

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

### **Chapter 22 Section 1 Laws 2016**

SECTION 1. Section 22-1-10 NMSA 1978 (being Laws 2010, Chapter 68, Section 1, as amended by Laws 2013, Chapter 187, Section 1 and by Laws 2013, Chapter 203, Section 1) 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 decreased state support. For the 2016-2017 through 2018-2019 school years, the secretary may waive requirements of the Public School Code and rules promulgated in accordance with that code pertaining to individual class load, teaching load, length of school day, staffing patterns, subject areas and purchases of instructional materials. The department shall monitor such waivers, and the secretary shall report to the legislative education study committee and the legislative finance committee on any issues or actions of a school district that appear to adversely affect student learning."

### **Chapter 22 Section 2 Laws 2016**

SECTION 2. REPEAL.--Section 22-10A-20.1 NMSA 1978 (being Laws 2014, Chapter 77, Section 1) is repealed.

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SPAC/Senate Bill 306

Approved March 1, 2016

## **LAWS 2016, CHAPTER 23**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE RAPID WORKFORCE DEVELOPMENT ACT; CREATING THE RAPID WORKFORCE DEVELOPMENT BOARD; CREATING THE RAPID WORKFORCE DEVELOPMENT FUND; PROVIDING THE BOARD'S POWERS AND DUTIES.

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

### **Chapter 23 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--This act may be cited as the "Rapid Workforce Development Act".

### **Chapter 23 Section 2 Laws 2016**

SECTION 2. PURPOSE.--The purpose of the Rapid Workforce Development Act is to provide resources to quickly establish or expand programs in the state's institutions of higher education to train and educate New Mexico's workers for employment with:

- A. existing New Mexico employers that expand their workforce; and
- B. employers that establish operation in New Mexico and create new jobs for New Mexicans.

### **Chapter 23 Section 3 Laws 2016**

SECTION 3. DEFINITIONS.--As used in the Rapid Workforce Development Act:

- A. "board" means the rapid workforce development board;
- B. "employer" means an individual, corporation, federally chartered corporation, limited liability company, partnership, nonprofit organization, joint venture, syndicate, association or Indian nation, tribe or pueblo that:
  - (1) currently transacts business in New Mexico and wishes to increase the number of people that it employs; or
  - (2) has chosen New Mexico as a location in which it will transact business and hire employees;
- C. "fund" means the rapid workforce development fund;
- D. "member" means a member of the board; and
- E. "workforce" means those people who are currently engaged in or trained for employment.

## **Chapter 23 Section 4 Laws 2016**

SECTION 4. RAPID WORKFORCE DEVELOPMENT BOARD CREATED--MEMBERSHIP.--The "rapid workforce development board" is created. The board is administratively attached to the economic development department and consists of the:

- A. secretary of economic development or the secretary's designee;
- B. secretary of higher education or the secretary's designee; and
- C. secretary of workforce solutions or the secretary's designee.

## **Chapter 23 Section 5 Laws 2016**

SECTION 5. RAPID WORKFORCE DEVELOPMENT FUND CREATED.--The "rapid workforce development fund" is created in the state treasury. The fund consists of appropriations and money otherwise accruing to the fund. Money in the fund is subject to appropriation by the legislature to the economic development department for use as provided in Section 6 of the Rapid Workforce Development Act. 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 economic development or the secretary's authorized representative. Any balance remaining in the fund at the end of a fiscal year shall not revert to the general fund.

## **Chapter 23 Section 6 Laws 2016**

SECTION 6. BOARD MEMBER POWERS AND DUTIES.--

A. Members are entitled to be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance for service on the board.

B. The secretary of economic development shall:

(1) identify employers;

(2) work with an employer to determine:

(a) the number of New Mexico workers that the employer will employ when it begins to transact business in New Mexico or when it increases the number of workers it already employs in New Mexico; and

(b) the job skills, education and training those workers will require to obtain employment with the employer; and

(3) upon identification of an employer and determination of the employer's workforce needs, as provided in Paragraph (2) of this subsection, convene a meeting of the board.

C. The secretary of workforce solutions shall provide, with respect to an employer identified by the secretary of economic development:

(1) demographic information about the relevant workforce in New Mexico; and

(2) information about relevant workforce education and training opportunities that are available throughout New Mexico, including opportunities offered by or in connection with state post-secondary educational institutions.

D. The secretary of higher education shall provide, with respect to an employer's workforce needs, information about state post-secondary educational institutions through which relevant training and education could be delivered.

E. At a meeting of the board, the members shall:

(1) consider how an employer's plan to begin transacting business in New Mexico or to increase the number of people employed by the employer's New Mexico business would contribute to job creation, employment and economic development in New Mexico;

(2) consider the information provided pursuant to Subsections C and D of this section;

(3) consider whether money in the fund should be used to establish or support a program in a state post-secondary educational institution to train workers for prospective employment with the prospective employer; and

(4) upon unanimous agreement, authorize the secretary of economic development to use money in the fund to establish or support a program in a state post-secondary educational institution to train workers for prospective employment with the prospective employer.

## **Chapter 23 Section 7 Laws 2016**

SECTION 7. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Rapid Workforce Development Act until July 1, 2024. Effective July 1, 2024, the Rapid Workforce Development Act is repealed.

## **Chapter 23 Section 8 Laws 2016**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 92, aa

Approved March 2, 2016

## **LAWS 2016, CHAPTER 24**

### **AN ACT**

RELATING TO WORKERS' COMPENSATION; AMENDING AND REPEALING SECTIONS OF THE WORKERS' COMPENSATION ACT TO PROVIDE THAT COMPENSATION BENEFITS BE REDUCED IN PROPORTION TO THE CONTRIBUTION OF THE WORKER'S INTOXICATION TO THE WORKER'S INJURY OR DEATH; PROVIDING EXCEPTIONS.

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

### **Chapter 24 Section 1 Laws 2016**

SECTION 1. Section 52-1-11 NMSA 1978 (being Laws 1929, Chapter 113, Section 8, as amended) is amended to read:

"52-1-11. INJURIES CAUSED BY THE WILLFULNESS OR INTENTION OF WORKER ARE NONCOMPENSABLE.--No compensation shall become due or payable from any employer under the terms of the Workers' Compensation Act in the event such injury was willfully suffered by the worker or intentionally inflicted by the worker."

### **Chapter 24 Section 2 Laws 2016**

SECTION 2. Section 52-1-12.1 NMSA 1978 (being Laws 2001, Chapter 87, Section 1) is amended to read:

"52-1-12.1. REDUCTION IN COMPENSATION WHEN ALCOHOL OR DRUGS CONTRIBUTE TO INJURY OR DEATH--EXCEPTIONS.--

A. As used in this section, "intoxication" or "influence" means a temporary state or condition of impaired physical, mental or cognitive function by means of alcohol, a drug, a controlled substance or a combination of two or more substances at the time of injury or death. "Drug" or "controlled substance" pursuant to this section does not include medications prescribed to a worker by the worker's licensed health care provider and taken in accordance with directions of the prescribing health care provider or



dispensing pharmacy, unless such medication is combined with alcohol or a non-prescribed drug or controlled substance to cause intoxication or influence.

B. Except as otherwise provided in this section, compensation benefits otherwise due and payable from an employer to the worker under the terms of the Workers' Compensation Act shall be reduced by the degree to which the intoxication or influence contributes to the worker's injury or death; provided that the reduction shall be a minimum of ten percent but no more than ninety percent.

C. Test results relied on as evidence of a worker's intoxication or influence shall not be considered in making a reduction in compensation determination unless the test and testing procedures conform with standard testing procedures generally accepted in the medical community and the test is performed by a laboratory certified to do the testing by an organization nationally recognized to do such certification. Testing may include testing methods for urine, breath or blood.

D. The director shall adopt rules regarding tests, testing and the cutoff levels for intoxication or influence.

E. If a post-accident test pursuant to Subsection C of this section is required of a worker and the worker refuses to submit to the test or to release the post-accident test results to the employer, no compensation otherwise payable from an employer under the terms of the Workers' Compensation Act shall be paid to the worker claiming compensation.

F. Testing shall be at the employer's expense and shall not be used as evidence in a criminal proceeding against the worker. Test samples shall be taken as a split sample. One part of the sample shall be held by the testing facility for twelve months from the date of the original test. Within this twelve-month period, the worker has the right to request a second test of the original sample at the worker's expense.

G. An employer shall be barred from claiming a reduction in compensation pursuant to this section if, before the accident, the employer has actual or constructive knowledge of the worker's intoxication or influence and a reasonable opportunity to take appropriate measures in response to the intoxication or influence but fails to take those measures.

H. An employer shall be barred from claiming a reduction in compensation pursuant to this section if the employer fails to implement a written policy that declares a drug- and alcohol-free workplace, which may include post-accident testing in accordance with this section, and that gives its employees notice that workers' compensation benefits may be reduced in the event intoxication or influence contributes to a workplace injury.

I. Reduction or denial of compensation benefits authorized under this section shall not affect payment of medical benefits provided for pursuant to Section 52-1-49 NMSA 1978.

J. Reduction or denial of compensation benefits authorized under this section shall not affect payments of benefits to the dependents of a deceased worker pursuant to Section 52-1-46 NMSA 1978."

## **Chapter 24 Section 3 Laws 2016**

SECTION 3. REPEAL.--Section 52-1-12 NMSA 1978 (being Laws 1971, Chapter 55, Section 1, as amended) is repealed.

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Senate Bill 214, aa

Approved March 2, 2016

## **LAWS 2016, CHAPTER 25**

AN ACT

MAKING AN APPROPRIATION FOR WASTEWATER SYSTEM FINANCING.

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

## **Chapter 25 Section 1 Laws 2016**

SECTION 1. APPROPRIATION.--One million four hundred thousand dollars (\$1,400,000) is appropriated from the public project revolving fund to the wastewater facility construction loan fund pursuant to Section 6-21-6.1 NMSA 1978 for expenditure in fiscal year 2017 and subsequent fiscal years to provide state matching funds for federal Clean Water Act projects and to carry out the purposes of the Wastewater Facility Construction Loan Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

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Senate Bill 102

Approved March 2, 2016

## **LAWS 2016, CHAPTER 26**

AN ACT

RELATING TO PUBLIC SCHOOLS; AMENDING THE PUBLIC SCHOOL CODE TO CLARIFY PROVISIONS OF THE BREAKFAST AFTER THE BELL PROGRAM.

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

**Chapter 26 Section 1 Laws 2016**

SECTION 1. Section 22-13-13.2 NMSA 1978 (being Laws 2011, Chapter 35, Section 5, as amended) is amended to read:

"22-13-13.2. BREAKFAST PROGRAM REQUIRED--WAIVER--DISTRIBUTION OF FUNDS.--

A. School districts and charter schools shall establish a "breakfast after the bell program" to provide free breakfast, after the instructional day has begun, to all students attending a public school in which eighty-five percent or more of the enrolled students were eligible for free or reduced-price lunch under the National School Lunch Act during the prior school year.

B. A school district or charter school that includes a public school in which fewer than eighty-five percent of the enrolled students were eligible for free or reduced-price lunch during the prior school year under the National School Lunch Act may establish a breakfast after the bell program to provide free breakfast, after the instructional day has begun, to all students attending that public school; provided that the program complies with all applicable department rules relating to the breakfast after the bell program authorized by this section.

C. Nothing in this section shall be interpreted to prohibit a school that establishes a breakfast after the bell program under the provisions of Subsection A or B of this section from beginning breakfast service before the start of the instructional day; provided that the school also serves breakfast after the beginning of the instructional day in the location of its choice, including the cafeteria, classroom, on the bus, or by providing a hand-carried breakfast.

D. The school district or charter school may apply to the department for a waiver of the breakfast after the bell program required under the provisions of Subsection A of this section if the school district or charter school can demonstrate that providing the program will result in undue financial hardship for the school district or charter school.

E. The department shall award funding to each school district or charter school that establishes a breakfast after the bell program under the provisions of this section for providing free breakfast to students on a per-meal basis at the federal maximum rate of reimbursement as set forth annually by the federal secretary of

agriculture for educational grants awarded under the authority of the secretary. School districts and charter schools do not need to demonstrate their expenses to receive funding pursuant to this section.

F. Disbursements for the breakfast after the bell program shall be paid in sequential order, until the state breakfast after the bell funds are exhausted. School districts and charter schools whose public schools have the highest percentage of enrolled students eligible for free or reduced-price lunch under the National School Lunch Act shall be paid first. School districts and charter schools whose public schools have the lowest percentage of enrolled students eligible for free or reduced-price lunch under the National School Lunch Act shall be paid last.

G. By June 15 of each year, each school district and charter school seeking state breakfast after the bell funds shall submit to the department the following information:

(1) the number of breakfasts served at no charge by each of its public schools during the previous school year; and

(2) the federal reimbursement rate for each breakfast served.

H. When calculating the amount of breakfast after the bell program funding that is due a public school, the department shall assume that student participation will remain at the same level as the previous year. If a school district or charter school has not previously received state breakfast after the bell funding, the department shall assume that ninety percent of the student population of an eligible public school will participate in the breakfast after the bell program and shall fund the public school's program accordingly.

I. By August 1 of each year, the department shall inform eligible school districts and charter schools of the amount of breakfast after the bell funding they will receive during the upcoming school year.

J. The department shall promulgate rules necessary for implementation of this section, including:

(1) standards for breakfast after the bell programs that meet federal school breakfast program standards;

(2) procedures for waiver requests and the award of waivers as provided for in Subsection D of this section, including what constitutes financial hardship; and

(3) procedures for funding school districts and charter schools.

K. The provisions of this section apply to the 2014-2015 and succeeding school years; provided, however, that the breakfast after the bell program for middle and high school students shall begin the first school year after the legislature provides funding for that portion of the program."

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SEC/Senate Bill 144, aa

Approved March 2, 2016

## **LAWS 2016, CHAPTER 27**

AN ACT

RELATING TO CRIMINAL SENTENCING; DEFINING "PROBATIONER" FOR THE PURPOSES OF THE STATUTE GOVERNING RETURN OF A PROBATION VIOLATOR; DECLARING AN EMERGENCY.

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

### **Chapter 27 Section 1 Laws 2016**

SECTION 1. Section 31-21-15 NMSA 1978 (being Laws 1963, Chapter 301, Section 13, as amended) is amended to read:

"31-21-15. RETURN OF PROBATION VIOLATOR.--

A. At any time during probation:

(1) the court may issue a warrant for the arrest of a probationer for violation of any of the conditions of release. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court;

(2) the court may issue a notice to appear to answer a charge of violation. The notice shall be personally served upon the probationer; or

(3) the director may arrest a probationer without warrant or may deputize any officer with power of arrest to do so by giving the officer a written statement setting forth that the probationer has, in the judgment of the director, violated the conditions of the probationer's release. The written statement, delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention, is sufficient warrant for the detention of the probationer. Upon the probationer's arrest and detention, the director shall immediately notify the court and

submit in writing a report showing in what manner the probationer has violated the conditions of release.

B. The court shall then hold a hearing, which may be informal, on the violation charged. If the violation is established, the court may continue the original probation or revoke the probation and either order a new probation with any condition provided for in Section 31-20-5 or 31-20-6 NMSA 1978 or require the probationer to serve the balance of the sentence imposed or any lesser sentence. If imposition of sentence was deferred, the court may impose any sentence that might originally have been imposed, but credit shall be given for time served on probation.

C. If it is found that a warrant for the return of a probationer cannot be served, the probationer is a fugitive from justice. After hearing upon return, if it appears that the probationer has violated the provisions of the probationer's release, the court shall determine whether the time from the date of violation to the date of the probationer's arrest, or any part of it, shall be counted as time served on probation. For the purposes of this subsection, "probationer" means a person convicted of a crime by a district, metropolitan, magistrate or municipal court.

D. The board shall budget funds to cover expenses of returning probationers to the court. The sheriff of the county in which the probationer was convicted is the court's agent in the transportation of the probationer, but the director, with the consent of the court, may utilize other state agencies for this purpose when it is in the best interest of the state."

## **Chapter 27 Section 2 Laws 2016**

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

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SPAC/Senate Bill 257, w/ec

Approved March 2, 2016

## **LAWS 2016, CHAPTER 28**

AN ACT

RELATING TO ELECTIONS; ALLOWING PERSONS WHO ARE SEVENTEEN YEARS OLD AND WHO WILL BE EIGHTEEN BY THE DAY OF THE GENERAL ELECTION TO VOTE IN THE PRIMARY ELECTION OR PARTICIPATE IN A MAJOR PARTY'S ALTERNATE SELECTION PROCEDURE.

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

## **Chapter 28 Section 1 Laws 2016**

SECTION 1. Section 1-4-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 60, as amended) is amended to read:

"1-4-2. QUALIFICATION FOR REGISTRATION--RIGHT TO VOTE IN PRIMARY.--

A. Any resident of New Mexico who will be a qualified elector at the date of the next ensuing general election shall be permitted within the provisions of the Election Code to register and become a voter.

B. If a person who is seventeen years old will be a qualified elector on the day of the general election and registers to vote in accordance with the provisions of Subsection A of this section, for the purposes of the primary election, that person shall be considered to be a voter and may vote in the primary election immediately preceding that general election."

## **Chapter 28 Section 2 Laws 2016**

SECTION 2. Section 1-15A-3 NMSA 1978 (being Laws 2003, Chapter 300, Section 3) is amended to read:

"1-15A-3. SELECTION OF NATIONAL CONVENTION DELEGATES BY MAJOR POLITICAL PARTIES--USE OF ALTERNATE SELECTION PROCEDURES--CERTIFICATION.--

A. If a major political party chooses not to participate in the presidential primary, it shall:

(1) notify the secretary of state at least thirty days before the governor is required to issue the proclamation of the primary election; and

(2) allow anyone who would otherwise be qualified to vote in that party's primary to participate in the party's selection procedure.

B. The state chair of a major political party that does not participate in the presidential primary shall certify to the secretary of state the names of the state party's delegates to the party's national convention, and those delegates shall file a declaration of acceptance in accordance with Section 1-15A-10 NMSA 1978."

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House Bill 138, w/o ec

Approved March 2, 2016

# **LAWS 2016, CHAPTER 29**

AN ACT

MAKING AN APPROPRIATION FOR WASTEWATER SYSTEM FINANCING.

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

## **Chapter 29 Section 1 Laws 2016**

SECTION 1. APPROPRIATION.--One million four hundred thousand dollars (\$1,400,000) is appropriated from the public project revolving fund to the wastewater facility construction loan fund pursuant to Section 6-21-6.1 NMSA 1978 for expenditure in fiscal year 2017 and subsequent fiscal years to provide state matching funds for federal Clean Water Act projects and to carry out the purposes of the Wastewater Facility Construction Loan Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

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House Bill 160

Approved March 2, 2016

# **LAWS 2016, CHAPTER 30**

AN ACT

RELATING TO TAXATION; ALLOWING MUNICIPALITIES AND COUNTIES TO USE A PORTION OF LODGERS' TAX REVENUE TO PROVIDE A REQUIRED MINIMUM REVENUE GUARANTEE FOR AIR SERVICE TO THE MUNICIPALITY OR COUNTY TO INCREASE THE ABILITY OF TOURISTS TO MORE EASILY ACCESS THE MUNICIPALITY'S OR COUNTY'S TOURIST-RELATED FACILITIES, ATTRACTIONS AND EVENTS.

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

## **Chapter 30 Section 1 Laws 2016**

SECTION 1. Section 3-38-21 NMSA 1978 (being Laws 1969, Chapter 199, Section 9, as amended) is amended to read:

"3-38-21. ELIGIBLE USES OF TAX PROCEEDS.--



A. Subject to the limitations contained in Section 3-38-15 NMSA 1978, a municipality or county imposing an occupancy tax may use the proceeds from the occupancy tax to defray costs of:

(1) collecting and otherwise administering the occupancy tax, including the performance of audits required by the Lodgers' Tax Act pursuant to guidelines issued by the department of finance and administration;

(2) establishing, operating, purchasing, constructing, otherwise acquiring, reconstructing, extending, improving, equipping, furnishing or acquiring real property or any interest in real property for the site or grounds for tourist-related facilities and attractions or tourist-related transportation systems of the municipality, the county in which the municipality is located or the county;

(3) the principal of and interest on any prior redemption premiums due in connection with and any other charges pertaining to revenue bonds authorized by Section 3-38-23 or 3-38-24 NMSA 1978;

(4) advertising, publicizing and promoting tourist-related attractions, facilities and events of the municipality or county and tourist-related facilities, attractions and events within the area;

(5) providing police and fire protection and sanitation service for tourist-related facilities, attractions and events located in the respective municipality or county;

(6) providing a required minimum revenue guarantee for air service to the municipality or county to increase the ability of tourists to easily access the municipality's or county's tourist-related facilities, attractions and events; or

(7) any combination of the foregoing purposes or transactions stated in this section, but for no other municipal or county purpose.

B. As used in this section, "minimum revenue guarantee" is the amount of money guaranteed by a municipality or county to be earned by an airline providing air services to and from that municipality or county, which is the difference between the minimum flight charge revenue specified in the contract between the municipality or county and the airline and the amount of actual flight charge revenue received by the airline that is less than that contractual amount."

## **Chapter 30 Section 2 Laws 2016**

SECTION 2. Section 3-38-23 NMSA 1978 (being Laws 1969, Chapter 199, Section 10, as amended) is amended to read:

"3-38-23. REVENUE BONDS.--

A. Revenue bonds may be issued at any time or from time to time by a municipality or county to defray wholly or in part the costs of any one, all or any combination of purposes authorized in Paragraphs (2) through (5) of Subsection A of Section 3-38-21 NMSA 1978.

B. The revenue bonds may be payable from and such payment may be secured by a pledge of and lien on the revenues derived from:

(1) the proceeds of the occupancy tax of the municipality or county after the deduction of those amounts required to be expended pursuant to Subsection D of Section 3-38-15 NMSA 1978 and the administration costs pertaining to the occupancy tax in an amount not to exceed ten percent of the occupancy tax receipts collected by the municipality or county in any fiscal year, excluding from the computation of such costs the administration costs ultimately recovered from delinquent vendors by civil action as penalties, costs of collection and attorney fees but not as interest on unpaid principal;

(2) the tourist-related facilities and attractions or tourist-related transportation systems to which the bonds pertain, after provision is made for the payment of the operation and maintenance expenses of the tourist-related facilities and attractions or tourist-related transportation systems; or

(3) a combination of such net revenues from both sources designated in Paragraphs (1) and (2) of this subsection.

C. The bonds shall bear interest at a rate as authorized in the Public Securities Act, and the first interest payment may be for any period authorized in the Public Securities Act.

D. Except as otherwise provided in the Lodgers' Tax Act, revenue bonds authorized in the Lodgers' Tax Act shall be issued in accordance with the provisions of Sections 3-31-2 through 3-31-6 NMSA 1978."

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House Bill 192

Approved March 2, 2016

## **LAWS 2016, CHAPTER 31**

AN ACT

RELATING TO CRIMINAL SENTENCING; DEFINING "PROBATIONER" FOR THE PURPOSES OF THE STATUTE GOVERNING RETURN OF A PROBATION VIOLATOR; DECLARING AN EMERGENCY.

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

## **Chapter 31 Section 1 Laws 2016**

SECTION 1. Section 31-21-15 NMSA 1978 (being Laws 1963, Chapter 301, Section 13, as amended) is amended to read:

"31-21-15. RETURN OF PROBATION VIOLATOR.--

A. At any time during probation:

(1) the court may issue a warrant for the arrest of a probationer for violation of any of the conditions of release. The warrant shall authorize the return of the probationer to the custody of the court or to any suitable detention facility designated by the court;

(2) the court may issue a notice to appear to answer a charge of violation. The notice shall be personally served upon the probationer; or

(3) the director may arrest a probationer without warrant or may deputize any officer with power of arrest to do so by giving the officer a written statement setting forth that the probationer has, in the judgment of the director, violated the conditions of the probationer's release. The written statement, delivered with the probationer by the arresting officer to the official in charge of a county jail or other place of detention, is sufficient warrant for the detention of the probationer. Upon the probationer's arrest and detention, the director shall immediately notify the court and submit in writing a report showing in what manner the probationer has violated the conditions of release.

B. The court shall then hold a hearing, which may be informal, on the violation charged. If the violation is established, the court may continue the original probation or revoke the probation and either order a new probation with any condition provided for in Section 31-20-5 or 31-20-6 NMSA 1978 or require the probationer to serve the balance of the sentence imposed or any lesser sentence. If imposition of sentence was deferred, the court may impose any sentence that might originally have been imposed, but credit shall be given for time served on probation.

C. If it is found that a warrant for the return of a probationer cannot be served, the probationer is a fugitive from justice. After hearing upon return, if it appears that the probationer has violated the provisions of the probationer's release, the court shall determine whether the time from the date of violation to the date of the probationer's arrest, or any part of it, shall be counted as time served on probation. For the purposes of this subsection, "probationer" means a person convicted of a crime by a district, metropolitan, magistrate or municipal court.

D. The board shall budget funds to cover expenses of returning probationers to the court. The sheriff of the county in which the probationer was convicted is the court's agent in the transportation of the probationer, but the director, with the consent of the court, may utilize other state agencies for this purpose when it is in the best interest of the state."

## **Chapter 31 Section 2 Laws 2016**

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

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HJC/House Bill 296, w/ec

Approved March 2, 2016

## **LAWS 2016, CHAPTER 32**

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING THE FAMILY VIOLENCE PROTECTION ACT TO PROVIDE FOR THE ISSUANCE OF AN EXTENDED ORDER OF PROTECTION AGAINST A PERSON CONVICTED OF CRIMINAL SEXUAL PENETRATION.

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

## **Chapter 32 Section 1 Laws 2016**

SECTION 1. A new section of the Family Violence Protection Act is enacted to read:

"EXTENDED ORDER OF PROTECTION.--

A. In the sentencing proceeding for a person convicted of criminal sexual penetration pursuant to Section 30-9-11 NMSA 1978, a prosecutor may request that the criminal court grant the victim an order of protection to remain in effect for the duration of the criminal court's jurisdiction over the person.

B. At any time after the expiration of a criminal court's jurisdiction over a person against whom an order of protection was granted pursuant to a request pursuant to Subsection A of this section, the victim may:

(1) file a petition for an order of protection against the person; and

(2) submit evidence of the person's conviction for criminal sexual penetration, including out-of-state, as cause for the court to grant the order of protection.

C. Based on evidence submitted pursuant to Subsection B of this section, a court may take judicial notice of the facts that led to a person's conviction for criminal sexual penetration and a victim shall not be required to appear before the court on the victim's petition for an order of protection; provided, however, that another person may appear on the victim's behalf.

D. A court may grant an order of protection pursuant to this section for any length of time, including for a victim's lifetime.

E. Notwithstanding the provisions of Subsection C of Section 40-13-6 NMSA 1978, an order of protection granted pursuant to this section shall continue until the expiration provided in the order, if any, or until modified or rescinded upon a motion by the victim."

## **Chapter 32 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 84, aa

Approved March 3, 2016

## **LAWS 2016, CHAPTER 33**

AN ACT

RELATING TO DOMESTIC VIOLENCE; AMENDING THE FAMILY VIOLENCE PROTECTION ACT TO PROVIDE FOR THE ISSUANCE OF AN EXTENDED ORDER OF PROTECTION AGAINST A PERSON CONVICTED OF CRIMINAL SEXUAL PENETRATION.

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

## **Chapter 33 Section 1 Laws 2016**

SECTION 1. A new section of the Family Violence Protection Act is enacted to read:

"EXTENDED ORDER OF PROTECTION.--

A. In the sentencing proceeding for a person convicted of criminal sexual penetration pursuant to Section 30-9-11 NMSA 1978, a prosecutor may request that the criminal court grant the victim an order of protection to remain in effect for the duration of the criminal court's jurisdiction over the person.

B. At any time after the expiration of a criminal court's jurisdiction over a person against whom an order of protection was granted pursuant to a request pursuant to Subsection A of this section, the victim may:

(1) file a petition for an order of protection against the person; and

(2) submit evidence of the person's conviction for criminal sexual penetration, including out-of-state, as cause for the court to grant the order of protection.

C. Based on evidence submitted pursuant to Subsection B of this section, a court may take judicial notice of the facts that led to a person's conviction for criminal sexual penetration and a victim shall not be required to appear before the court on the victim's petition for an order of protection; provided, however, that another person may appear on the victim's behalf.

D. A court may grant an order of protection pursuant to this section for any length of time, including for a victim's lifetime.

E. Notwithstanding the provisions of Subsection C of Section 40-13-6 NMSA 1978, an order of protection granted pursuant to this section shall continue until the expiration provided in the order, if any, or until modified or rescinded upon a motion by the victim."

## **Chapter 33 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 27, aa

Approved March 3, 2016

## **LAWS 2016, CHAPTER 34**

AN ACT

RELATING TO HEALTH CARE PROFESSIONAL LIABILITY; ENFORCING EXCLUSIVE FORUM SELECTION AND CHOICE OF LAW PROVISIONS IN CERTAIN HEALTH CARE PROVIDER CONTRACTS.

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

**Chapter 34 Section 1 Laws 2016**

SECTION 1. A new section of Chapter 41 NMSA 1978 is enacted to read:

"EXCLUSIVE FORUM SELECTION AND CHOICE OF LAW PROVISIONS IN HEALTH CARE PROVIDER CONTRACTS--ENFORCEMENT.--

A. Exclusive forum selection and choice of law provisions regarding claims or civil actions against a health care provider for medical treatment, lack of medical treatment or other claimed departure from accepted standards of health care that proximately results in injury to a patient, whether the claim or cause of action sounds in tort or in contract, including actions based on battery or wrongful death, shall be enforced by the courts of this state.

B. As used in this section, "health care provider" means:

(1) a person licensed, registered, certified or otherwise authorized to provide health care services pursuant to the laws of a state;

(2) a hospital, outpatient facility, diagnostic treatment center, rehabilitation center, community mental health center, residential treatment center, hospice or home health agency licensed or otherwise authorized to provide health care services pursuant to the laws of a state;

(3) a person that owns, operates or manages a health care provider or group of health care providers; or

(4) the employees, officers, agents and governing board members of a health care provider or group of health care providers."

**Chapter 34 Section 2 Laws 2016**

SECTION 2. DELAYED REPEAL.--Section 1 of this act is repealed effective July 1, 2019.

**Chapter 34 Section 3 Laws 2016**

SECTION 3. APPLICABILITY.--The provisions of this act apply to claims arising out of acts or omissions occurring on or after the effective date of this act.

## **Chapter 34 Section 4 Laws 2016**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 270, aa

Approved March 3, 2016

## **LAWS 2016, CHAPTER 35**

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FOR PUBLIC PROJECTS FROM THE PUBLIC PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

## **Chapter 35 Section 1 Laws 2016**

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 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;

2. 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;

3. 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;



4. 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;

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

6. 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;

7. 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;

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

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

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

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

12. 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;

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

14. 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;

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

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

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

18. 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;

19. 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;

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

21. 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;

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

23. 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;

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

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

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

27. 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;

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

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

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

31. 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;

32. 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;

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

34. El Prado water and sanitation district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

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

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

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

38. 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;

39. 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;

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

41. 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;

42. the Fort Sumner municipal school district in DeBaca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

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

44. 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;

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

46. 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;

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

48. 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;

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

50. 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;

51. 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;

52. 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;

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

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

55. 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;

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

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

58. 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;

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

60. 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;

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

62. 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;

63. 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;

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

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

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

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

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

69. the Mesa Vista consolidated school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

70. 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;

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

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

73. 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;

74. the Navajo tribal utility authority in San Juan and McKinley counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

75. 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 and facilities acquisition;

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

77. 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;

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

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

80. 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;

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

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

83. 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;

84. 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;

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

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

87. 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;

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

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

90. 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;

91. 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;

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

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

94. 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;

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

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

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



98. 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;

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

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

101. 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;

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

103. 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;

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

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

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

107. 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;

108. 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;

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

110. 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;

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

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

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

114. 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;

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

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

117. the Estancia, Moriarty, Willard and Torrance regional water association in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects; and

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

## **Chapter 35 Section 2 Laws 2016**

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 2019 its desire to continue to pursue a loan from the public project revolving fund for a public project listed in that section, the legislative authorization granted to the New Mexico finance authority by Section 1 of this act to make a loan from the public project revolving fund to that qualified entity for that public project is void.

## **Chapter 35 Section 3 Laws 2016**

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 12, aa, w/ec

Approved March 3, 2016

## **LAWS 2016, CHAPTER 36**

AN ACT

RELATING TO H CLASS COUNTIES; REVISING SALARY STRUCTURE FOR COUNTY EMPLOYEES; INCREASING SALARIES FOR FULL-TIME COUNTY EMPLOYEES.

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

### **Chapter 36 Section 1 Laws 2016**

SECTION 1. 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 to an office that is designated as part-time 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. Officers who are elected or appointed in a county of the H class to an office that is designated as full-time shall receive no more than the following annual salaries:

(1) treasurer, sixty-five thousand eight hundred fifty-five dollars (\$65,855);

(2) assessor, sixty-five thousand eight hundred fifty-five dollars (\$65,855);

(3) sheriff, sixty-eight thousand six hundred fifty-four dollars (\$68,654); and

(4) county clerk, sixty-five thousand eight hundred fifty-five dollars (\$65,855).

C. The governing body of an H class county shall designate whether the office of treasurer, assessor, sheriff or county clerk is part-time or full-time; provided, however, that no change in designation shall take effect until the first day of the term of an elected county official who takes office after the designation is approved.

D. 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 36 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 18

Approved March 3, 2016

## **LAWS 2016, CHAPTER 37**

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

## **Chapter 37 Section 1 Laws 2016**

SECTION 1. APPROPRIATION.--One million eight hundred thousand dollars (\$1,800,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2017 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 37 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 19

Approved March 3, 2016

## **LAWS 2016, CHAPTER 38**

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; PROVIDING FOR STANDARD PROJECTS THAT RECEIVE ECONOMIC DEVELOPMENT REVOLVING FUND FUNDING TO BE APPROVED FIRST BY LAW STARTING JULY 1, 2019; REPEALING AND REENACTING A SECTION OF THE NMSA 1978.

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

## **Chapter 38 Section 1 Laws 2016**

SECTION 1. That version of Section 6-25-6 NMSA 1978 (being Laws 2011, Chapter 150, Section 2, as amended by Laws 2013, Chapter 106, Section 2) that is to become effective on July 1, 2016 is repealed and a new Section 6-25-6 NMSA 1978 is enacted 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 receiving financing assistance with money in the fund shall be approved by the authority pursuant to rules approved by the New Mexico finance authority oversight committee. Beginning July 1, 2019, standard projects shall first be approved by law.

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 38 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 33

Approved March 3, 2016

## **LAWS 2016, CHAPTER 39**

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE PUBLIC EMPLOYEES RETIREMENT ACT AND PUBLIC EMPLOYER GROUP INSURANCE PROVISIONS; REQUIRING THAT AN AFFILIATED PUBLIC EMPLOYER PAY CERTAIN EMPLOYEES' MEMBER CONTRIBUTIONS AND GROUP INSURANCE CONTRIBUTIONS IF THE EMPLOYEE SUSTAINS A NON-ADMINISTRATIVE WORK-RELATED INJURY RENDERING THE EMPLOYEE ABSENT FROM WORK ON APPROVED WORKERS' COMPENSATION LEAVE.

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

## **Chapter 39 Section 1 Laws 2016**

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 political 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. Except as provided in Subsection G of this section, 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. An employer shall pay one hundred percent of the employee group insurance contributions due and payable on or after July 1, 2016 for an employee who is injured while performing a public safety function or duty and, as a result of the injury, is placed on approved workers' compensation leave.

H. 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.

I. 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.

J. 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.

K. 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 39 Section 2 Laws 2016**

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

**"SERVICE CREDIT FOR CERTAIN INJURED MEMBERS ON APPROVED WORKERS' COMPENSATION LEAVE.--**

A. A member whose affiliated public employer has provided written certification to the association, in the form and manner prescribed by the association, that the employee was injured while performing a work-related function or duty in an inherently dangerous location or under inherently dangerous circumstances and that the member is absent from work and has been placed on approved workers' compensation leave as a result of the injury shall accrue service credit for the period of absence from work while on workers' compensation leave; provided that:

(1) the member is a peace officer covered pursuant to state general member coverage plan 3; a state police member; an adult correctional officer member; a municipal fire member; a municipal police member; or a municipal detention officer member;

(2) the member retains membership in the association during the period of absence from work on approved workers' compensation leave; and

(3) the member's affiliated public employer pays the injured employee's member contributions as well as the employer contributions and remits to the association the total amount of employee and employer contributions that would have been paid if the member had not been absent from work while on approved workers' compensation leave. The contribution amounts shall be calculated based upon a salary equal to the member's salary at the time of the injury.

B. The affiliated public employer shall provide an appeal process for an injured employee on approved workers' compensation leave who is determined by the affiliated public employer not to meet the criteria in Subsection A of this section."

**Chapter 39 Section 3 Laws 2016**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 43

Approved March 3, 2016

**LAWS 2016, CHAPTER 40**

## AN ACT

RELATING TO ACCOUNTS FOR THE SUPPORT OF PERSONS WITH DISABILITIES; CREATING THE ACCOUNTS FOR PERSONS WITH DISABILITIES ACT; ENACTING ENABLING LEGISLATION REQUIRED BY THE FEDERAL ACHIEVING A BETTER LIFE EXPERIENCE ACT OF 2014; REQUIRING THE OFFICE OF THE STATE TREASURER TO ESTABLISH AND MAINTAIN A QUALIFIED PROGRAM FOR SUCH ACCOUNTS; DECLARING AN EMERGENCY.

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

### **Chapter 40 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--Sections 1 through 7 of this act may be cited as the "Accounts for Persons with Disabilities Act".

### **Chapter 40 Section 2 Laws 2016**

SECTION 2. DEFINITIONS.--As used in the Accounts for Persons with Disabilities Act:

A. "account" means an individual tax-free savings account for a designated beneficiary that is established pursuant to Section 529A of the Internal Revenue Code of 1986, as amended;

B. "account owner" means a person who establishes and owns an account under the Accounts for Persons with Disabilities Act and who is one of the following:

(1) the designated beneficiary of the account;

(2) the parent, guardian or conservator of a minor designated beneficiary; or

(3) the conservator of a designated beneficiary otherwise incapable of handling such beneficiary's financial affairs;

C. "designated beneficiary" means a person for whom an account is established under the Accounts for Persons with Disabilities Act;

D. "disability certification" means a certification deemed sufficient by the United States secretary of the treasury to establish a certain level of physical or mental impairment that meets the requirements of Section 529A of the Internal Revenue Code of 1986, as amended;

E. "eligible person" means, for a taxable year, a person who is either:

(1) entitled during that taxable year to benefits based on blindness or disability under Title 2 or Title 16 of the federal Social Security Act; provided that such blindness or disability occurred before the date on which the individual attained age twenty-six; or

(2) the subject of a disability certification filed with the United States secretary of the treasury;

F. "family member" means a sibling, whether by blood or adoption, including a brother, sister, stepbrother, stepsister, half-brother or half-sister;

G. "fiduciary" means a person authorized to do business in New Mexico and acting as a fiduciary to manage and invest an account; provided that such person is bonded and is not the parent, guardian or conservator of the designated beneficiary of the account;

H. "financial organization" means an organization that is authorized to do business in New Mexico and is:

(1) licensed or chartered by the office of superintendent of insurance;

(2) licensed or chartered by the financial institutions division of the regulation and licensing department; or

(3) subject to the jurisdiction of the federal securities and exchange commission;

I. "office" means the office of the state treasurer;

J. "qualified disability expenses" means any expenses, related to the designated beneficiary's blindness or disability, that include the following:

(1) education;

(2) housing;

(3) transportation;

(4) employment training and support;

(5) assistive technology and personal support services;

(6) health, prevention and wellness;

(7) financial management and administrative services;

(8) legal fees;

(9) expenses for oversight and monitoring;

(10) funeral and burial expenses; and

(11) other expenses approved by the United States secretary of the treasury; and

K. "qualified program" means a program established and maintained by the state or an agency or instrumentality of the state pursuant to 26 U.S.C. Section 529A.

## **Chapter 40 Section 3 Laws 2016**

### SECTION 3. DUTIES AND AUTHORITY OF THE OFFICE.--

A. The office shall:

(1) ensure that an account meets the requirements of a qualified program; and

(2) promulgate rules to implement and administer the qualified program and other requirements of the Accounts for Persons with Disabilities Act.

B. The office may contract with third parties to:

(1) verify the disability certification of each designated beneficiary under the state's qualified program and certify whether expenses paid from such account are qualified disability expenses;

(2) provide such information related to accounts as the state is required to report to the federal social security administration; and

(3) administer and manage the accounts and report account activity to the office on an annual or such other basis as determined by the office.

## **Chapter 40 Section 4 Laws 2016**

### SECTION 4. ACCOUNTS.--

A. An account owner may:

(1) establish an account with a financial organization or fiduciary;

(2) close the account and establish an account with another financial organization or fiduciary, no more than twice in any tax year; and

(3) change the owner of an account to a family member of a designated beneficiary; provided that the family member is an eligible person.

B. More than one person may contribute to an account.

C. A person shall not be the designated beneficiary of more than one account.

## **Chapter 40 Section 5 Laws 2016**

### SECTION 5. DUTIES OF FINANCIAL ORGANIZATION OR FIDUCIARY.--

A. If a designated beneficiary incurs a qualified disability expense, the financial organization or fiduciary shall pay such expense, or reimburse such expense; provided that the account balance is sufficient to do so.

B. If any person attempts to contribute to an account and such contribution would exceed the limits on annual or maximum aggregate contributions to the account pursuant to 26 U.S.C. Section 529A, the financial organization or fiduciary shall return the amount that exceeds such limits to the contributor.

## **Chapter 40 Section 6 Laws 2016**

SECTION 6. STATE AS CREDITOR OF ACCOUNT.--Subject to any outstanding payments due for qualified disability expenses, upon the death of the designated beneficiary, an amount equal to the total medical assistance paid for the designated beneficiary after the establishment of the account shall be distributed to the state from funds remaining in the account upon filing of a claim for payment by the state. For purposes of this section, the state shall be a creditor of an account and not a beneficiary.

## **Chapter 40 Section 7 Laws 2016**

### SECTION 7. TREATMENT OF ACCOUNTS UNDER FEDERAL MEANS-TESTED PROGRAMS.--

A. Notwithstanding any other provision of federal law that requires consideration of one or more financial circumstances of a person when determining eligibility to receive benefits or determining the amount of assistance, such provisions shall not apply to a designated beneficiary except that, in the case of the supplemental security income program under Title 16 of the federal Social Security Act:

(1) a distribution for housing expenses shall be allowed; and

(2) any amount in an account established pursuant to the Accounts for Persons with Disabilities Act, including earnings on investment of the account, in excess of one hundred thousand dollars (\$100,000) shall be considered an excess resource of the designated beneficiary.

B. The benefits of a designated beneficiary under the supplemental security income program under Title 16 of the federal Social Security Act shall not be terminated, but shall be suspended, by reason of excess resources of the designated beneficiary attributable to an amount in the account, within the meaning of Section 529A of the Internal Revenue Code of 1986, as amended.

## **Chapter 40 Section 8 Laws 2016**

SECTION 8. A new section of Chapter 6, Article 8 NMSA 1978 is enacted to read:

"ACCOUNTS FOR SUPPORT OF PERSONS WITH DISABILITIES.--The state treasurer shall establish and maintain the program established pursuant to 26 U.S.C. Section 529A and the Accounts for Persons with Disabilities Act."

## **Chapter 40 Section 9 Laws 2016**

SECTION 9. DISCLAIMER OF LIABILITY.--The state shall not be liable for financial losses suffered by any account owner, or designated beneficiary, with respect to an account established pursuant to the Accounts for Persons with Disabilities Act.

## **Chapter 40 Section 10 Laws 2016**

SECTION 10. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2016.

## **Chapter 40 Section 11 Laws 2016**

SECTION 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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House Bill 61, aa, w/ec

Approved March 3, 2016

# **LAWS 2016, CHAPTER 41**

AN ACT



RELATING TO LAW ENFORCEMENT; AMENDING THE PEACE OFFICERS' SURVIVORS SUPPLEMENTAL BENEFITS ACT TO INCLUDE BENEFITS FOR NEW MEXICO MOUNTED PATROL MEMBERS' SURVIVORS AND RESERVE POLICE OFFICERS' SURVIVORS.

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

### **Chapter 41 Section 1 Laws 2016**

SECTION 1. Section 29-4A-1 NMSA 1978 (being Laws 1995, Chapter 59, Section 1, as amended) is amended to read:

"29-4A-1. SHORT TITLE.--Chapter 29, Article 4A NMSA 1978 may be cited as the "Peace Officers', New Mexico Mounted Patrol Members' and Reserve Police Officers' Survivors Supplemental Benefits Act"."

### **Chapter 41 Section 2 Laws 2016**

SECTION 2. Section 29-4A-3 NMSA 1978 (being Laws 1995, Chapter 59, Section 3, as amended) is amended to read:

"29-4A-3. DEFINITIONS.--As used in the Peace Officers', New Mexico Mounted Patrol Members' and Reserve Police Officers' Survivors Supplemental Benefits Act:

A. "fund" means the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund;

B. "New Mexico mounted patrol" means units or troops officered and manned to assist with law enforcement pursuant to the provisions of Sections 29-6-1 and 29-6-4 NMSA 1978, Subsection A of Section 29-6-5 NMSA 1978 and Section 29-6-6 NMSA 1978;

C. "peace officer" means any full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department or a conservation officer of the department of game and fish as used in Chapter 17 NMSA 1978 that is part of or administered by the state or any political subdivision of the state;

D. "reserve police officer" means a volunteer or a temporary or part-time employee of a state or local law enforcement agency who is accepted by that agency as a reserve law enforcement officer after receiving a background check and training as needed by that agency and who is not a member of the New Mexico mounted patrol; and

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

### **Chapter 41 Section 3 Laws 2016**

SECTION 3. Section 29-4A-4 NMSA 1978 (being Laws 1995, Chapter 59, Section 4) is amended to read:

"29-4A-4. FUND CREATED.--The "peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund" is created in the state treasury and shall be administered by the department of public safety. The fund shall consist of all gifts, donations and bequests of money to the fund as well as any appropriations made to the fund. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the department of public safety for the purpose of paying death benefits pursuant to the Peace Officers', New Mexico Mounted Patrol Members' and Reserve Police Officers' Survivors Supplemental Benefits Act and shall be paid out only upon warrants issued by the secretary of finance and administration pursuant to vouchers signed by the secretary of public safety. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert."

## **Chapter 41 Section 4 Laws 2016**

SECTION 4. Section 29-4A-5 NMSA 1978 (being Laws 1995, Chapter 59, Section 5, as amended) is amended to read:

"29-4A-5. PEACE OFFICERS', NEW MEXICO MOUNTED PATROL MEMBERS' AND RESERVE POLICE OFFICERS' SURVIVORS SUPPLEMENTAL DEATH BENEFITS--REVIEW COMMITTEE--DETERMINATION--PAYMENT.--

A. There is created the "peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee". The committee shall consist of the attorney general, the chief of the New Mexico state police and the state president of the fraternal order of police or their designees.

B. The peace officers', New Mexico mounted patrol members' and reserve police officers' survivors supplemental death benefits review committee shall determine whether a peace officer, New Mexico mounted patrol member or reserve police officer has been killed in the line of duty and advise the secretary of that determination. In addition to any other death benefits provided by law, the surviving spouse, children or parents shall be paid two hundred fifty thousand dollars (\$250,000) as supplemental death benefits whenever a peace officer, New Mexico mounted patrol member or reserve police officer is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid first to the surviving spouse. If there is no surviving spouse, the benefits shall be distributed in pro rata shares to all surviving children. If there are no surviving children or spouse, benefits shall be distributed to the surviving parents of the peace officer, New Mexico mounted patrol member or reserve police officer."

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House Bill 92, aa

Approved March 3, 2016

## **LAWS 2016, CHAPTER 42**

AN ACT

RELATING TO HEALTH CARE; PROVIDING FOR OSTEOPATHIC MEDICAL STUDENT LOANS TO STUDENTS OF A NEW MEXICO COLLEGE OF OSTEOPATHIC MEDICINE OR OSTEOPATHIC PHYSICIAN'S ASSISTANT PROGRAM IN EXCHANGE FOR SERVICE IN A HEALTH PROFESSIONAL SHORTAGE AREA.

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

### **Chapter 42 Section 1 Laws 2016**

SECTION 1. Section 21-22A-3 NMSA 1978 (being Laws 1978, Chapter 109, Section 3, as amended) is amended to read:

"21-22A-3. DEFINITIONS.--As used in the Osteopathic Medical Student Loan for Service Act:

A. "department" means the higher education department;

B. "health professional shortage area" means an area in the state of New Mexico designated as having a shortage of primary care medical care, dental or mental health providers by the health resources and services administration of the United States department of health and human services;

C. "loan" means a grant of funds to defray the costs incidental to an osteopathic medical education, under a contract between the department and an osteopathic medical student, requiring either repayment with interest or repayment in services;

D. "osteopathic medical education" means the education required to be an osteopathic physician or osteopathic physician's assistant; and

E. "student" means a person enrolled in a school of osteopathic medicine or an osteopathic physician's assistant program in New Mexico."

### **Chapter 42 Section 2 Laws 2016**

SECTION 2. Section 21-22A-4 NMSA 1978 (being Laws 1978, Chapter 109, Section 4, as amended) is amended to read:

"21-22A-4. OSTEOPATHIC MEDICAL STUDENT LOANS--DEPARTMENT AUTHORIZED--QUALIFICATIONS.--

A. The department is authorized to grant a loan to defray the expenses of the osteopathic medical education of a student deemed qualified by the department to receive the osteopathic medical education, upon such terms and conditions as may be imposed by regulations of the department.

B. The department shall only receive, pass upon and allow or disallow those applications for loans made by those students enrolled in or accepted by a New Mexico college of osteopathic medicine or osteopathic physician's assistant program who declare their intent to practice as osteopathic physicians or osteopathic physician's assistants within designated areas of the state.

C. The department shall make a full and careful investigation of the ability, character and qualifications of each applicant and determine the applicant's fitness to become a recipient of a student loan. The investigation of each applicant shall include an investigation of the ability of the applicant and the applicant's parents or guardians to pay the applicant's expenses for an osteopathic medical education. The department shall give preference to qualified applicants who are unable, or whose parents or guardians are unable, to pay the applicant's expenses in obtaining an osteopathic medical education.

D. The department shall arrange for loan recipients to receive assistance in locating, planning and implementing the establishment and maintenance of a practice as an osteopathic physician or osteopathic physician's assistant in a health professional shortage area."

### **Chapter 42 Section 3 Laws 2016**

SECTION 3. Section 21-22A-5 NMSA 1978 (being Laws 1978, Chapter 109, Section 5, as amended) is amended to read:

"21-22A-5. DELEGATION OF DUTIES TO OTHER STATE AGENCIES.--The department may arrange with other agencies for the performance of services required by the provisions of Section 21-22A-4 NMSA 1978."

### **Chapter 42 Section 4 Laws 2016**

SECTION 4. Section 21-22A-6 NMSA 1978 (being Laws 1978, Chapter 109, Section 6, as amended by Laws 2005, Chapter 321, Section 4 and by Laws 2005, Chapter 323, Section 2) is amended to read:

"21-22A-6. OSTEOPATHIC MEDICAL STUDENT LOANS--CONTRACT TERMS--  
-REPAYMENT.--

A. Each applicant who is approved for a loan by the department may be granted a loan, in such amounts and for such periods as determined by the department, with which to defray expenses incurred in obtaining an osteopathic medical education at an accredited osteopathic medical school in New Mexico if the applicant files with the department a declaration of intent to practice as a licensed osteopathic physician or osteopathic physician's assistant in a health professional shortage area.

B. The loan shall not exceed the necessary expenses incurred while attending a New Mexico osteopathic medical school or college or osteopathic physician's assistant program and shall bear interest at the rate of:

(1) eighteen percent per year if the loan recipient completes an osteopathic medical education and no portion of the principal and interest is forgiven pursuant to Subsection F of this section; and

(2) seven percent per year in all other cases.

C. Loans made pursuant to the Osteopathic Medical Student Loan for Service Act shall not accrue interest until the department:

(1) determines the loan recipient has terminated the recipient's osteopathic medical education prior to completion;

(2) determines the loan recipient has failed to fulfill the recipient's obligation to serve in a health professional shortage area; or

(3) cancels a contract between a loan recipient and the department pursuant to Section 21-22A-9 NMSA 1978.

D. The loan shall be evidenced by a contract between the loan recipient and the department acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum covering the costs of an osteopathic medical education and shall be conditioned upon the repayment of the loan to the state over a period established by the department in consultation with the loan recipient after the completion of osteopathic medical school or an osteopathic physician's assistant program and any period of internship or residency required to complete the loan recipient's education.

E. Loans made to loan recipients who fail to complete their osteopathic medical education shall become due immediately upon termination of their osteopathic medical education. The department, in consultation with the loan recipient, shall establish terms of repayment, alternate service or cancellation terms.

F. The contract shall provide that the department shall forgive a portion of the loan for each year that a loan recipient practices as a licensed osteopathic physician or osteopathic physician's assistant in a health professional shortage area and shall require a period of four years of service in exchange for the loan. Ten percent of the loan shall be forgiven upon completion of the first year of service, twenty percent of the loan shall be forgiven upon completion of the second year of service, thirty percent of the loan shall be forgiven upon completion of the third year of service and the remainder of the loan shall be forgiven upon completion of the fourth year of service.

G. Loan recipients shall serve a complete year in order to receive credit for that year. The minimum credit for a year shall be established by the department.

H. If a loan recipient completes a professional education and does not meet all requirements of this section, the department shall assess a penalty of up to three times the principal due, plus eighteen percent interest, unless the department finds acceptable extenuating circumstances for why the requirements should be waived. If the department does not find acceptable extenuating circumstances for the loan recipient's failure to meet the requirements of this section, the department shall require immediate repayment of the loan plus the amount of any interest and penalty assessed pursuant to this section.

I. The department shall adopt rules to implement the provisions of this section. The rules may provide for the repayment of osteopathic medical student loans in annual or other periodic installments."

## **Chapter 42 Section 5 Laws 2016**

SECTION 5. Section 21-22A-7 NMSA 1978 (being Laws 1978, Chapter 109, Section 7, as amended) is amended to read:

"21-22A-7. CONTRACTS--LEGAL ASSISTANCE--ENFORCEMENT.--The general form of the contract provided for in Section 21-22A-6 NMSA 1978 shall be prepared and approved by the attorney general and signed by the loan recipient and a designee 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 any loan recipient on any such contract."

## **Chapter 42 Section 6 Laws 2016**

SECTION 6. Section 21-22A-8 NMSA 1978 (being Laws 1978, Chapter 109, Section 8, as amended) is amended to read:

"21-22A-8. FUND CREATED--METHOD OF PAYMENT.--There is created in the state treasury the "osteopathic medical student loan for service fund". All money appropriated for loans to osteopathic medical students under the Osteopathic Medical Student Loan for Service Act shall be credited to the fund. All payments of principal and

interest on loans made pursuant to that act received by the department shall be deposited with the state treasurer to the credit of the fund or shall be deposited with the department's administrative agent. All payments of funds for loans shall be made upon vouchers signed by designated representatives of the department."

## **Chapter 42 Section 7 Laws 2016**

SECTION 7. Section 21-22A-9 NMSA 1978 (being Laws 1978, Chapter 109, Section 9, as amended) is amended to read:

"21-22A-9. CANCELLATION.--The department is authorized to cancel any contract made between it and any loan recipient for any reasonable cause deemed sufficient by the department."

## **Chapter 42 Section 8 Laws 2016**

SECTION 8. Section 21-22A-10 NMSA 1978 (being Laws 1978, Chapter 109, Section 10, as amended) is amended to read:

"21-22A-10. REPORTS.--The department shall make annual reports to the governor and to the legislature, prior to each regular session, of its activities, the loans granted and the names and addresses of persons to whom loans were granted and the osteopathic medical schools or colleges or osteopathic physician's assistant programs attended by those receiving the loans, together with a list of the names and locations of practice of those loan recipients who have completed their education and have become licensed osteopathic physicians or osteopathic physician's assistants in New Mexico as a result of a student loan pursuant to the Osteopathic Medical Student Loan for Service Act."

## **Chapter 42 Section 9 Laws 2016**

SECTION 9. REPEAL.--Section 21-22A-2 NMSA 1978 (being Laws 1978, Chapter 109, Section 2, as amended) is repealed.

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House Bill 103, aa

Approved March 3, 2016

# **LAWS 2016, CHAPTER 43**

AN ACT

MAKING AN APPROPRIATION TO THE LOCAL GOVERNMENT PLANNING FUND.

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

### **Chapter 43 Section 1 Laws 2016**

SECTION 1. APPROPRIATION.--Three million dollars (\$3,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2017 and subsequent fiscal years to make grants to qualified entities to evaluate and estimate the costs of implementing the most feasible alternatives for infrastructure, water or wastewater public projects or to develop water conservation plans, long-term master plans, economic development plans or energy audits and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

### **Chapter 43 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 134

Approved March 3, 2016

## **LAWS 2016, CHAPTER 44**

AN ACT

RELATING TO PROPERTY; AMENDING THE RIGHT TO FARM ACT TO PROTECT AGRICULTURAL OPERATIONS OR FACILITIES FROM NUISANCE CLAIMS.

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

### **Chapter 44 Section 1 Laws 2016**

SECTION 1. Section 47-9-3 NMSA 1978 (being Laws 1981, Chapter 287, Section 3, as amended) is amended to read:

"47-9-3. AGRICULTURAL OPERATIONS DEEMED NOT A NUISANCE.--

A. Any agricultural operation or agricultural facility is not, nor shall it become, a private or public nuisance by any changed condition in or about the locality of the agricultural operation or agricultural facility if the operation was not a nuisance at



the time the operation began and has been in existence for more than one year; except that the provisions of this section shall not apply whenever an agricultural operation or agricultural facility is operated negligently or illegally such that the operation or facility is a nuisance.

B. Any ordinance or resolution of any unit of local government that makes the operation of any agricultural operation or agricultural facility a nuisance or provides for abatement of it as a nuisance under the circumstances set forth in this section shall not apply when an agricultural operation is located within the corporate limits of any municipality as of April 8, 1981.

C. The established date of operation is the date on which an agricultural operation commenced or an agricultural facility was originally constructed. If an agricultural operation or agricultural facility is subsequently expanded or a new technology is adopted, the established date of operation does not change.

D. No cause of action based upon nuisance may be brought by a person whose claim arose following the purchase, lease, rental, or occupancy of property proximate to a previously established agricultural operation or agricultural facility, except when such previously established agricultural operation or agricultural facility has substantially changed in the nature and scope of its operations."

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Senate Bill 72, aa

Approved March 3, 2016

## **LAWS 2016, CHAPTER 45**

### **AN ACT**

RELATING TO HEALTH; AMENDING SECTIONS OF THE PUBLIC HEALTH ACT AND THE PHARMACY ACT TO PROVIDE FOR THE AUTHORIZED POSSESSION, STORAGE, DISTRIBUTION, PRESCRIBING AND ADMINISTRATION OF OPIOID ANTAGONISTS; PROVIDING FOR IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY; DECLARING AN EMERGENCY.

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

### **Chapter 45 Section 1 Laws 2016**

SECTION 1. Section 24-23-1 NMSA 1978 (being Laws 2001, Chapter 228, Section 1) is amended to read:

"24-23-1. AUTHORITY TO POSSESS, STORE, DISTRIBUTE, DISPENSE, PRESCRIBE AND ADMINISTER OPIOID ANTAGONISTS--RELEASE FROM LIABILITY--RULEMAKING.--

A. A person may possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist.

B. Any person acting under a standing order issued by a licensed prescriber may store or distribute an opioid antagonist.

C. Pursuant to a valid prescription, a pharmacist may dispense an opioid antagonist to a person:

(1) at risk of experiencing an opioid-related drug overdose; or

(2) in a position to assist another person at risk of experiencing an opioid-related drug overdose.

D. A pharmacist may distribute an opioid antagonist to a registered overdose prevention and education program.

E. A person may administer an opioid antagonist to another person if the person:

(1) in good faith, believes the other person is experiencing a drug overdose; and

(2) acts with reasonable care in administering the drug to the other person.

F. A licensed prescriber may directly or by standing order prescribe, dispense or distribute an opioid antagonist to:

(1) a person at risk of experiencing an opioid-related drug overdose;

(2) a family member, friend or other person in a position to assist a person at risk of experiencing an opioid-related drug overdose;

(3) an employee, volunteer or representative of a community-based entity providing overdose prevention and education services that is registered with the department; or

(4) a first responder.

G. A registered overdose prevention and education program that possesses, stores, distributes or administers an opioid antagonist in accordance with department rules and on standing orders from a licensed prescriber pursuant to this section shall not be subject to civil liability, criminal prosecution or professional disciplinary action arising from the possession, storage, distribution or administration of the opioid antagonist; provided that actions are taken with reasonable care and without willful, wanton or reckless behavior.

H. A person who possesses or who administers, dispenses or distributes an opioid antagonist to another person pursuant to this section shall not be subject to civil liability, criminal prosecution or professional disciplinary action as a result of the possession, administration, distribution or dispensing of the opioid antagonist; provided that actions are taken with reasonable care and without willful, wanton or reckless behavior.

I. The department shall create, collect and maintain any individually identifiable information pursuant to this section in a manner consistent with state and federal privacy laws.

J. The secretary shall promulgate rules relating to overdose prevention and education programs:

(1) establishing requirements and protocols for the registration of overdose prevention and education programs that are not licensed pharmacies;

(2) monitoring registered overdose prevention and education programs' storage and distribution of opioid antagonists;

(3) gathering data from overdose prevention and education programs to inform public health efforts to address overdose prevention efforts; and

(4) authorizing standards for overdose prevention education curricula, training and the certification of individuals to store and distribute opioid antagonists for the overdose prevention and education program.

K. As used in this section:

(1) "administer" means the direct application of a drug to the body of an individual by injection, inhalation, ingestion or any other means;

(2) "department" means the department of health;

(3) "dispense" means to evaluate and implement a prescription for an opioid antagonist, including the preparation and delivery of a drug or device to a patient or patient's agent;

(4) "distribute" means to deliver an opioid antagonist drug or opioid antagonist device by means other than by administering or dispensing;

(5) "first responder" means any public safety employee or volunteer whose duties include responding rapidly to an emergency, including:

(a) a law enforcement officer;

(b) a firefighter or certified volunteer firefighter; or

(c) emergency medical services personnel;

(6) "licensed prescriber" means any individual who is authorized by law to prescribe an opioid antagonist in the state;

(7) "opioid antagonist" means a drug approved by the federal food and drug administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body. "Opioid antagonist" shall be limited to naloxone or other like medications that are indicated for use in reversing an opioid overdose and are approved by the department for such purpose;

(8) "possess" means to have physical control or custody of an opioid antagonist;

(9) "registered overdose prevention and education program" means any community-based organization, law enforcement agency, detention facility or school that has registered with the department in accordance with department rules and uses an approved department curriculum to teach overdose prevention and opioid antagonist administration;

(10) "standing order" means a licensed prescriber's instruction or prescribed procedure that is either patient specific or non-patient specific that can be exercised by other persons until changed or canceled by a licensed prescriber; and

(11) "storage" means possession of an opioid antagonist with the intent to dispense or distribute it."

## **Chapter 45 Section 2 Laws 2016**

SECTION 2. Section 61-11-7 NMSA 1978 (being Laws 1969, Chapter 29, Section 6, as amended) is amended to read:

"61-11-7. DRUG DISPENSATION--LIMITATIONS.--

A. The Pharmacy Act does not prohibit:

(1) a hospital or state or county institution or clinic without the services of a staff pharmacist from acquiring and having in its possession a dangerous drug for the purpose of dispensing if it is in a dosage form suitable for dispensing and if the hospital, institution or clinic employs a consulting pharmacist, and if the consulting pharmacist is not available, the withdrawal of a drug from stock by a licensed professional nurse on the order of a licensed practitioner in such amount as needed for administering to and treatment of a patient;

(2) the extemporaneous preparation by a licensed professional nurse on the order of a licensed practitioner of simple solutions for injection when the solution may be prepared from a quantity of drug that has been prepared previously by a pharmaceutical manufacturer or pharmacist and obtained by a hospital, institution or clinic in a form suitable for the preparation of the solution;

(3) the sale of nonnarcotic, nonpoisonous or nondangerous nonprescription medicines or preparations by nonregistered persons or unlicensed stores when sold in their original containers;

(4) the sale of drugs intended for veterinary use; provided that if the drugs bear the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian", the drug may be sold or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978, by a person possessing a license issued by the board pursuant to Subsection B of Section 61-11-14 NMSA 1978;

(5) the sale to or possession or administration of topical ocular pharmaceutical agents by licensed optometrists who have been certified by the board of optometry for the use of the agents;

(6) the sale to or possession or administration of oral pharmaceutical agents as authorized in Subsection A of Section 61-2-10.2 NMSA 1978 by licensed optometrists who have been certified by the board of optometry for the use of the agents;

(7) pharmacy technicians from providing assistance to pharmacists;

(8) a pharmacist from prescribing dangerous drug therapy, including vaccines and immunizations, under rules and protocols adopted by the board after approval by the New Mexico medical board and the board of nursing;

(9) a pharmacist from exercising the pharmacist's professional judgment in refilling a prescription for a prescription drug, unless prohibited by another state or federal law, without the authorization of the prescribing licensed practitioner, if:

(a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(b) the pharmacist is unable to contact the licensed practitioner after reasonable effort;

(c) the quantity of prescription drug dispensed does not exceed a seventy-two-hour supply;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without authorization and that authorization of the licensed practitioner is required for future refills; and

(e) the pharmacist informs the licensed practitioner of the emergency refill at the earliest reasonable time; or

(10) the possession, storage, distribution, dispensing, administration or prescribing of an opioid antagonist in accordance with the provisions of Section 24-23-1 NMSA 1978.

B. All prescriptions requiring the preparation of dosage forms or amounts of dangerous drugs not available in the stock of a hospital, institution or clinic or a prescription requiring compounding shall be either compounded or dispensed only by a pharmacist."

## **Chapter 45 Section 3 Laws 2016**

SECTION 3. Section 61-11-22 NMSA 1978 (being Laws 1969, Chapter 29, Section 21, as amended) is amended to read:

"61-11-22. EXEMPTIONS FROM ACT.--

A. The Pharmacy Act does not apply to licensed practitioners in this state in supplying to their patients any drug if the licensed practitioner is practicing the licensed practitioner's profession and does not keep a pharmacy, advertised or otherwise, for the retailing of dangerous drugs.

B. The Pharmacy Act does not prevent:

(1) the personal administration of drugs carried by a licensed practitioner in order to supply the immediate needs of the licensed practitioner's patients;

(2) the sale of nonnarcotic proprietary preparations; or

(3) the possession, storage, dispensing, distribution, administration or prescribing of an opioid antagonist in accordance with the provisions of Section 24-23-1 NMSA 1978."

## **Chapter 45 Section 4 Laws 2016**

SECTION 4. REPEAL.--Section 24-23-2 NMSA 1978 (being Laws 2001, Chapter 228, Section 2) is repealed.

## **Chapter 45 Section 5 Laws 2016**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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Senate Bill 262, aa, w/ec

Approved March 4, 2016

# **LAWS 2016, CHAPTER 46**

AN ACT

RELATING TO HEALTH CARE; REQUIRING A PRACTITIONER WHO PRESCRIBES OR DISPENSES AN OPIOID TO A PATIENT TO OBTAIN AND REVIEW REPORTS FROM THE STATE'S PRESCRIPTION MONITORING PROGRAM AND FROM ADJACENT STATES, IF ACCESSIBLE, FOR SUCH PATIENT.

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

## **Chapter 46 Section 1 Laws 2016**

SECTION 1. A new section of the New Mexico Drug, Device and Cosmetic Act is enacted to read:

"OPIOIDS--REQUIRING PRACTITIONERS TO OBTAIN AND REVIEW REPORTS FROM THE PRESCRIPTION MONITORING PROGRAM.--

A. For purposes of this section:

(1) "opioid" means the class of drugs that includes the natural derivatives of opium, which are morphine and codeine, and related synthetic and semi-synthetic compounds that act upon opioid receptors;

(2) "practitioner" does not include a pharmacist, veterinarian or euthanasia technician;

(3) "prescription monitoring program" means a program that includes a centralized system to collect, monitor and analyze electronically, for Schedule II through V controlled substances, prescribing and dispensing data submitted by dispensers; and

(4) "Schedule II through V controlled substance" means a substance listed in Schedule II, III, IV or V pursuant to the Controlled Substances Act or the federal controlled substances regulation, pursuant to 21 U.S.C. 812.

B. Before a practitioner prescribes or dispenses an opioid for the first time to a patient, the practitioner shall obtain and review a report from the state's prescription monitoring program for such patient for the previous twelve calendar months. If the practitioner has access to a similar report from an adjacent state for the patient, the practitioner shall also obtain and review that report. The provisions of this subsection shall not apply to the prescription or dispensing of an opioid for a supply of four days or less.

C. A practitioner shall obtain and review a report from the state's prescription monitoring program and similar reports from an adjacent state, if any, no less than once every three months for each established patient for whom the practitioner continuously prescribes or dispenses opioids.

D. A practitioner shall document the receipt and review of reports required by this section in the patient's medical record.

E. Nothing in this section shall be construed to prevent a practitioner from obtaining and reviewing a report regarding a practitioner's patient from the state's prescription monitoring program or a similar report from another state with greater frequency than that required by this section, in accordance with the practitioner's professional judgment.

F. Nothing in this section shall be construed to require a practitioner to obtain a prescription monitoring report when prescribing an opioid to a patient in a nursing facility or in hospice care.

G. The professional licensing board of each category of practitioner that is licensed or otherwise authorized to prescribe or dispense an opioid shall promulgate rules to implement the provisions of this section. Nothing in this section shall be construed to prevent a professional licensing board from requiring by rule that practitioners obtain prescription monitoring program reports with greater frequency than that required by this section."

## **Chapter 46 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2017.



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Senate Bill 263, aa

Approved March 4, 2016

## **LAWS 2016, CHAPTER 47**

AN ACT

RELATING TO HEALTH; AMENDING SECTIONS OF THE PUBLIC HEALTH ACT AND THE PHARMACY ACT TO PROVIDE FOR THE AUTHORIZED POSSESSION, STORAGE, DISTRIBUTION, PRESCRIBING AND ADMINISTRATION OF OPIOID ANTAGONISTS; PROVIDING FOR IMMUNITY FROM CIVIL AND CRIMINAL LIABILITY; DECLARING AN EMERGENCY.

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

### **Chapter 47 Section 1 Laws 2016**

SECTION 1. Section 24-23-1 NMSA 1978 (being Laws 2001, Chapter 228, Section 1) is amended to read:

"24-23-1. AUTHORITY TO POSSESS, STORE, DISTRIBUTE, DISPENSE, PRESCRIBE AND ADMINISTER OPIOID ANTAGONISTS--RELEASE FROM LIABILITY--RULEMAKING.--

A. A person may possess an opioid antagonist, regardless of whether the person holds a prescription for the opioid antagonist.

B. Any person acting under a standing order issued by a licensed prescriber may store or distribute an opioid antagonist.

C. Pursuant to a valid prescription, a pharmacist may dispense an opioid antagonist to a person:

(1) at risk of experiencing an opioid-related drug overdose; or

(2) in a position to assist another person at risk of experiencing an opioid-related drug overdose.

D. A pharmacist may distribute an opioid antagonist to a registered overdose prevention and education program.

E. A person may administer an opioid antagonist to another person if the person:

(1) in good faith, believes the other person is experiencing a drug overdose; and

(2) acts with reasonable care in administering the drug to the other person.

F. A licensed prescriber may directly or by standing order prescribe, dispense or distribute an opioid antagonist to:

(1) a person at risk of experiencing an opioid-related drug overdose;

(2) a family member, friend or other person in a position to assist a person at risk of experiencing an opioid-related drug overdose;

(3) an employee, volunteer or representative of a community-based entity providing overdose prevention and education services that is registered with the department; or

(4) a first responder.

G. A registered overdose prevention and education program that possesses, stores, distributes or administers an opioid antagonist in accordance with department rules and on standing orders from a licensed prescriber pursuant to this section shall not be subject to civil liability, criminal prosecution or professional disciplinary action arising from the possession, storage, distribution or administration of the opioid antagonist; provided that actions are taken with reasonable care and without willful, wanton or reckless behavior.

H. A person who possesses or who administers, dispenses or distributes an opioid antagonist to another person pursuant to this section shall not be subject to civil liability, criminal prosecution or professional disciplinary action as a result of the possession, administration, distribution or dispensing of the opioid antagonist; provided that actions are taken with reasonable care and without willful, wanton or reckless behavior.

I. The department shall create, collect and maintain any individually identifiable information pursuant to this section in a manner consistent with state and federal privacy laws.

J. The secretary shall promulgate rules relating to overdose prevention and education programs:

(1) establishing requirements and protocols for the registration of overdose prevention and education programs that are not licensed pharmacies;

(2) monitoring registered overdose prevention and education programs' storage and distribution of opioid antagonists;

(3) gathering data from overdose prevention and education programs to inform public health efforts to address overdose prevention efforts; and

(4) authorizing standards for overdose prevention education curricula, training and the certification of individuals to store and distribute opioid antagonists for the overdose prevention and education program.

K. As used in this section:

(1) "administer" means the direct application of a drug to the body of an individual by injection, inhalation, ingestion or any other means;

(2) "department" means the department of health;

(3) "dispense" means to evaluate and implement a prescription for an opioid antagonist, including the preparation and delivery of a drug or device to a patient or patient's agent;

(4) "distribute" means to deliver an opioid antagonist drug or opioid antagonist device by means other than by administering or dispensing;

(5) "first responder" means any public safety employee or volunteer whose duties include responding rapidly to an emergency, including:

(a) a law enforcement officer;

(b) a firefighter or certified volunteer firefighter; or

(c) emergency medical services personnel;

(6) "licensed prescriber" means any individual who is authorized by law to prescribe an opioid antagonist in the state;

(7) "opioid antagonist" means a drug approved by the federal food and drug administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body. "Opioid antagonist" shall be limited to naloxone or other like medications that are indicated for use in reversing an opioid overdose and are approved by the department for such purpose;

(8) "possess" means to have physical control or custody of an opioid antagonist;

(9) "registered overdose prevention and education program" means any community-based organization, law enforcement agency, detention facility or school that has registered with the department in accordance with department rules and uses an approved department curriculum to teach overdose prevention and opioid antagonist administration;

(10) "standing order" means a licensed prescriber's instruction or prescribed procedure that is either patient specific or non-patient specific that can be exercised by other persons until changed or canceled by a licensed prescriber; and

(11) "storage" means possession of an opioid antagonist with the intent to dispense or distribute it."

## **Chapter 47 Section 2 Laws 2016**

SECTION 2. Section 61-11-7 NMSA 1978 (being Laws 1969, Chapter 29, Section 6, as amended) is amended to read:

### **"61-11-7. DRUG DISPENSATION--LIMITATIONS.--**

#### **A. The Pharmacy Act does not prohibit:**

(1) a hospital or state or county institution or clinic without the services of a staff pharmacist from acquiring and having in its possession a dangerous drug for the purpose of dispensing if it is in a dosage form suitable for dispensing and if the hospital, institution or clinic employs a consulting pharmacist, and if the consulting pharmacist is not available, the withdrawal of a drug from stock by a licensed professional nurse on the order of a licensed practitioner in such amount as needed for administering to and treatment of a patient;

(2) the extemporaneous preparation by a licensed professional nurse on the order of a licensed practitioner of simple solutions for injection when the solution may be prepared from a quantity of drug that has been prepared previously by a pharmaceutical manufacturer or pharmacist and obtained by a hospital, institution or clinic in a form suitable for the preparation of the solution;

(3) the sale of nonnarcotic, nonpoisonous or nondangerous nonprescription medicines or preparations by nonregistered persons or unlicensed stores when sold in their original containers;

(4) the sale of drugs intended for veterinary use; provided that if the drugs bear the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian", the drug may be sold or distributed only as provided in Subsection A of Section 26-1-15 NMSA 1978, by a person possessing a license issued by the board pursuant to Subsection B of Section 61-11-14 NMSA 1978;

(5) the sale to or possession or administration of topical ocular pharmaceutical agents by licensed optometrists who have been certified by the board of optometry for the use of the agents;

(6) the sale to or possession or administration of oral pharmaceutical agents as authorized in Subsection A of Section 61-2-10.2 NMSA 1978 by licensed optometrists who have been certified by the board of optometry for the use of the agents;

(7) pharmacy technicians from providing assistance to pharmacists;

(8) a pharmacist from prescribing dangerous drug therapy, including vaccines and immunizations, under rules and protocols adopted by the board after approval by the New Mexico medical board and the board of nursing;

(9) a pharmacist from exercising the pharmacist's professional judgment in refilling a prescription for a prescription drug, unless prohibited by another state or federal law, without the authorization of the prescribing licensed practitioner, if:

(a) failure to refill the prescription might result in an interruption of a therapeutic regimen or create patient suffering;

(b) the pharmacist is unable to contact the licensed practitioner after reasonable effort;

(c) the quantity of prescription drug dispensed does not exceed a seventy-two-hour supply;

(d) the pharmacist informs the patient or the patient's agent at the time of dispensing that the refill is being provided without authorization and that authorization of the licensed practitioner is required for future refills; and

(e) the pharmacist informs the licensed practitioner of the emergency refill at the earliest reasonable time; or

(10) the possession, storage, distribution, dispensing, administration or prescribing of an opioid antagonist in accordance with the provisions of Section 24-23-1 NMSA 1978.

B. All prescriptions requiring the preparation of dosage forms or amounts of dangerous drugs not available in the stock of a hospital, institution or clinic or a prescription requiring compounding shall be either compounded or dispensed only by a pharmacist."

## **Chapter 47 Section 3 Laws 2016**

SECTION 3. Section 61-11-22 NMSA 1978 (being Laws 1969, Chapter 29, Section 21, as amended) is amended to read:

"61-11-22. EXEMPTIONS FROM ACT.--

A. The Pharmacy Act does not apply to licensed practitioners in this state in supplying to their patients any drug if the licensed practitioner is practicing the licensed practitioner's profession and does not keep a pharmacy, advertised or otherwise, for the retailing of dangerous drugs.

B. The Pharmacy Act does not prevent:

(1) the personal administration of drugs carried by a licensed practitioner in order to supply the immediate needs of the licensed practitioner's patients;

(2) the sale of nonnarcotic proprietary preparations; or

(3) the possession, storage, dispensing, distribution, administration or prescribing of an opioid antagonist in accordance with the provisions of Section 24-23-1 NMSA 1978."

## **Chapter 47 Section 4 Laws 2016**

SECTION 4. REPEAL.--Section 24-23-2 NMSA 1978 (being Laws 2001, Chapter 228, Section 2) is repealed.

## **Chapter 47 Section 5 Laws 2016**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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HHC/House Bill 277, w/ec

Approved March 4, 2016

# **LAWS 2016, CHAPTER 48**

AN ACT

RELATING TO PUBLIC FINANCES; CHANGING THE DEFINITION OF "NEW MEXICO PRIVATE EQUITY FUND".

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

## **Chapter 48 Section 1 Laws 2016**

SECTION 1. Section 7-27-5.14 NMSA 1978 (being Laws 1990, Chapter 126, Section 4, as amended) is amended to read:

"7-27-5.14. FINDINGS AND PURPOSE.--The legislature finds that the health of the New Mexico economy is heavily dependent on the establishment and expansion of small businesses and that the lack of available private equity is an impediment to the start-up and growth of businesses in the state. The legislature further finds that the commercialization of technology conceived in the universities and the federal scientific and engineering laboratories and test facilities in the state is likely to occur elsewhere unless sources of local private equity are developed. The purpose of Section 7-27-5.15 NMSA 1978 is to provide a mechanism whereby the establishment of private equity funds, whose investment policies are supportive of the economic welfare of New Mexico, will be stimulated."

## **Chapter 48 Section 2 Laws 2016**

SECTION 2. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

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

A. No more than nine percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

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

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

D. As used in this section:

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

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

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

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

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

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

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

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

(1) the investments are made:

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

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

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or



technology, including but not limited to energy, security, defense, aerospace, automotives, electronics, telecommunications, computer and information science, environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

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

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

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

(b) is necessary to protect the investment; and

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

F. 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 investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each

private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business."

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Senate Bill 15, aa

Approved March 4, 2016

## **LAWS 2016, CHAPTER 49**

AN ACT

RELATING TO TAXATION; CLARIFYING THAT A CONTRIBUTION MADE TO A UTILITY FOR THE EXPANSION, IMPROVEMENT OR REPLACEMENT OF SERVICE OR A FACILITY OF THE UTILITY IS NOT SUBJECT TO VALUATION FOR PROPERTY TAX PURPOSES.

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

### **Chapter 49 Section 1 Laws 2016**

SECTION 1. Section 7-36-29 NMSA 1978 (being Laws 1975, Chapter 165, Section 10) is amended to read:

"7-36-29. SPECIAL METHOD OF VALUATION--PROPERTY USED FOR THE GENERATION, TRANSMISSION OR DISTRIBUTION OF ELECTRIC POWER OR ENERGY.--

A. All property used for the generation, transmission or distribution of electric power or energy subject to valuation for property taxation purposes shall be valued in accordance with the provisions of this section.

B. As used in this section:

(1) "depreciation" means straight line depreciation over the useful life of the item of property;

(2) "electric plant" means all property situated in this state used or useful for the generation, transmission or distribution of electric power or energy, but does not include land, land rights, general buildings and improvements, construction work in progress, materials and supplies and licensed vehicles;

(3) "construction work in progress" means the total of the balances of work orders for an electric plant in process of construction on the last day of the preceding calendar year exclusive of land, land rights and licensed vehicles;

(4) "general buildings and improvements" means buildings of the nature of offices, residential housing, warehouses, shops and associated improvements in general use by the taxpayer and not directly associated with generation, transmission or distribution of electric power or energy;

(5) "materials and supplies" means the cost, including sales, use and excise taxes, and transportation costs to point of delivery in this state, less purchases and trade discounts, of all unapplied material and supplies on hand in this state as of December 31 of the preceding calendar year; and

(6) "tangible property cost" means the actual cost of acquisition or construction of property, including additions, retirements, adjustments and transfers, but without deduction of related accumulated provision for depreciation, amortization or other purposes; "tangible property cost" excludes the cost of property contributed to, or acquired with funds contributed to, a utility by or on behalf of a ratepayer or potential ratepayer for the expansion, improvement or replacement of property used for the transmission or distribution of electric power of the utility.

C. An electric plant shall be valued as follows:

(1) the department shall determine the tangible property cost of the electric plant;

(2) such tangible property cost shall then be reduced by the related accumulated provision for depreciation and any other justifiable factors, including functional and economic obsolescence, such as the limitation on the use of the property based on the available reserves committed to the property; and

(3) notwithstanding the foregoing determination of value for property taxation purposes, the value for property taxation purposes of an electric plant shall not be less than twenty percent of the tangible property cost of the electric plant.

D. The value of construction work in progress shall be fifty percent of the amount expended and entered upon the accounting records of the taxpayer as of December 31 of the preceding calendar year as construction work in progress.

E. The value of materials and supplies shall be the tangible property cost for such property as of December 31 of the preceding calendar year.

F. Each item of property having a taxable situs in the state and valued under this section shall have its net taxable value allocated to the governmental units in which the property is located.

G. The department shall adopt regulations under Section 72-31-88 NMSA 1953 to implement the provisions of this section."

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Senate Bill 47, aa

Approved March 4, 2016

## **LAWS 2016, CHAPTER 50**

### **AN ACT**

RELATING TO PUBLIC FINANCE; CLARIFYING THE TYPES OF INVESTMENTS IN WHICH COUNTY AND MUNICIPAL TREASURERS MAY INVEST CERTAIN PUBLIC MONEY; MAKING A TECHNICAL CORRECTION.

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

### **Chapter 50 Section 1 Laws 2016**

SECTION 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

A. Upon the certification or designation of a bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and county or municipal treasurers who have on hand any public money by virtue of their offices shall make deposit of that money in banks and savings and loan associations and may make deposit of that money in credit unions whose deposits are insured by an agency of the United States, designated by the authority authorized by law to so designate to receive the deposits of all money thereafter received or collected by the treasurers.

B. County or municipal treasurers may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to 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;

(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; or

(3) federally insured obligations, including brokered certificates of deposit, certificate of deposit account registry service and federally insured cash accounts.

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 I of Section 6-8-7 NMSA 1978; provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments.

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."

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Senate Bill 56

Approved March 4, 2016

## **LAWS 2016, CHAPTER 51**

AN ACT

RELATING TO THE SALE OF RECYCLED MATERIALS; AMENDING THE SALE OF RECYCLED METALS ACT TO INCLUDE LEAD MATERIAL.

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

### **Chapter 51 Section 1 Laws 2016**

SECTION 1. Section 57-30-2 NMSA 1978 (being Laws 2008, Chapter 29, Section 2, as amended by Laws 2012, Chapter 29, Section 2 and by Laws 2012, Chapter 33, Section 2) is amended to read:

"57-30-2. DEFINITIONS.--As used in the Sale of Recycled Metals Act:

A. "aluminum material" means a product made from aluminum, an aluminum alloy or an aluminum byproduct. "Aluminum material" includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage;

B. "bronze material" means:

- (1) a cemetery vase, receptacle or memorial made from bronze;
- (2) bronze statuary; or
- (3) material readily identifiable as bronze;

C. "business day" means any calendar day except Sunday and the following holidays: New Year's day, Washington's birthday, Memorial day, Independence day, Labor day, Columbus day, Veterans' day, Thanksgiving day, Christmas day, Martin Luther King, Jr.'s birthday and any other legal public holiday of the state of New Mexico or the United States;

D. "copper or brass material" means:

(1) insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or

(2) a copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier;

E. "department" means the regulation and licensing department;

F. "lead material" means:

(1) a lead-acid battery; or

(2) material readily identifiable as being made of or containing lead;

G. "peace officer" means any full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state;

H. "personal identification document" means:

(1) a driver's license;

(2) a military identification card; or

(3) a passport issued by the United States or by another country and recognized by the United States;

I. "regulated material" means:

(1) aluminum material;

(2) bronze material;

(3) copper or brass material;

(4) steel material;

(5) lead material;

(6) a utility access cover;

(7) a water meter cover;

- (8) a road or bridge guard rail;
- (9) a highway or street sign;
- (10) a traffic directional or control sign or signal; or
- (11) a catalytic converter that is not part of an entire motor vehicle;

J. "secondhand metal dealer" means a scrap metal processor in the business of operating or maintaining a scrap metal yard in a physical location in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer;

K. "steel material" means a product made from an alloy of iron, chromium, nickel or manganese, including stainless steel beer kegs; and

L. "superintendent" means the superintendent of regulation and licensing."

## **Chapter 51 Section 2 Laws 2016**

SECTION 2. Section 57-30-5 NMSA 1978 (being Laws 2008, Chapter 29, Section 5, as amended by Laws 2012, Chapter 29, Section 4 and by Laws 2012, Chapter 33, Section 4) is amended to read:

### **"57-30-5. RECORD OF PURCHASE.--**

A. A secondhand metal dealer in this state shall keep an accurate and legible written record, in a form approved by the department, of each purchase made in the course of the dealer's business of:

- (1) copper or brass material;
- (2) bronze material;
- (3) lead material;
- (4) aluminum material in excess of ten pounds; or

(5) steel material in excess of one ton, except that a written record shall be kept of each purchase of a stainless steel beer keg.

B. The record shall be in English and shall include:

- (1) the place and date of the purchase;
- (2) the name and address of each person from whom the regulated material is purchased or obtained;

(3) the identifying number of the personal identification document of each person from whom the regulated material is purchased or obtained;

(4) the year, make, model and license plate number of the motor vehicle used to transport the regulated material;

(5) a description made in accordance with the custom of the trade of the type and quantity of regulated material purchased;

(6) the statement required by Paragraph (2) of Subsection A of Section 57-30-4 NMSA 1978; and

(7) the written documentation required for certain transactions pursuant to Section 57-30-2.4 NMSA 1978, if applicable.

C. A secondhand metal dealer may take a digital photograph, with a date and time stamp, of:

(1) the seller of the regulated material; and

(2) the regulated material in the form in which it was purchased or obtained by the secondhand metal dealer."

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Senate Bill 76

Approved March 4, 2016

## **LAWS 2016, CHAPTER 52**

AN ACT

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

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

### **Chapter 52 Section 1 Laws 2016**

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to the provisions of Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualifying entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the city of Anthony in Dona Ana county for a flood prevention project;
2. to the village of Corrales in Sandoval county for a flood prevention project;
3. to the eastern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
4. to the southern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
5. to the upper Hondo soil and water conservation district in Lincoln county for a flood prevention project;
6. to the Canadian river soil and water conservation district in Quay county for a watershed restoration and management project;
7. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;
8. to the Claunch-Pinto soil and water conservation district in Torrance county for an additional watershed restoration and management project;
9. to the Ute Creek soil and water conservation district in Harding county for a watershed restoration and management project;
10. to the town of Mesilla in Dona Ana county for a water conservation or treatment, recycling or reuse project;
11. to the village of Cimarron in Colfax county for a water conservation or treatment, recycling or reuse project;
12. to the Agua Sana water users association in Rio Arriba county for a water conservation or treatment, recycling or reuse project;
13. to Los Alamos county for a water conservation or treatment, recycling or reuse project;
14. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water conservation or treatment, recycling or reuse project;
15. to the city of Carlsbad in Eddy county for a water conservation or treatment, recycling or reuse project;
16. to the Pueblo of Tesuque in Santa Fe county for a water conservation or treatment, recycling or reuse project;

17. to the city of Hobbs in Lea county for a water conservation or treatment, recycling or reuse project;
18. to the city of Santa Fe in Santa Fe county for a water conservation or treatment, recycling or reuse project;
19. to the town of Bernalillo in Sandoval county for a water conservation or treatment, recycling or reuse project;
20. to the Acequia de la Isla in Mora county for a water storage, conveyance and delivery project;
21. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water storage, conveyance and delivery project;
22. to the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
23. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;
24. to the city of Bloomfield in San Juan county for a water storage, conveyance and delivery project;
25. to the Buena Vista mutual domestic water consumers association in Mora county for a water storage, conveyance and delivery project;
26. to the city of Deming in Luna county for a water storage, conveyance and delivery project;
27. to the village of Eagle Nest in Colfax county for a water storage, conveyance and delivery project;
28. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;
29. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;
30. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;
31. to El Salto mutual domestic water consumers' and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;

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

33. to the Pueblo of Isleta in Bernalillo county for a water storage, conveyance and delivery project;

34. to the city of Jal in Lea county for a water storage, conveyance and delivery project;

35. to the Jemez Springs domestic water association in Sandoval county for a water storage, conveyance and delivery project;

36. to the village of Los Lunas in Valencia county for a water storage, conveyance and delivery project;

37. to the lower Arroyo Hondo mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

38. to the village of Melrose in Curry county for a water storage, conveyance and delivery project;

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

40. to the Santa Cruz irrigation district in Rio Arriba and Santa Fe counties for a water storage, conveyance and delivery project;

41. to the town of Taos in Taos county for a water storage, conveyance and delivery project; and

42. to the city of Truth or Consequences in Sierra county for a water storage, conveyance and delivery project.

## **Chapter 52 Section 2 Laws 2016**

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 106, w/ec

Approved March 4, 2016

## **LAWS 2016, CHAPTER 53**

AN ACT

RELATING TO HEALTH; AMENDING A SECTION OF THE PUBLIC SCHOOL CODE TO EXTEND THE TIME OUT OF COMMISSION FOR STUDENT ATHLETES WHO HAVE SUFFERED A POSSIBLE BRAIN INJURY AND ESTABLISH CERTIFICATION FOR NONSCHOLASTIC YOUTH ATHLETIC ACTIVITY; ENACTING A NEW SECTION OF LAW TO ESTABLISH PROTOCOLS FOR ADDRESSING THE RISK OF BRAIN INJURY IN NON-SCHOOL YOUTH ATHLETIC ACTIVITIES.

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

**Chapter 53 Section 1 Laws 2016**

SECTION 1. Section 22-13-31 NMSA 1978 (being Laws 2010, Chapter 96, Section 1) is amended to read:

"22-13-31. BRAIN INJURY--PROTOCOLS TO BE USED BY COACHES FOR BRAIN INJURIES RECEIVED BY STUDENTS IN SCHOOL ATHLETIC ACTIVITIES-- TRAINING OF COACHES--INFORMATION TO BE PROVIDED TO COACHES, STUDENT ATHLETES AND STUDENT ATHLETES' PARENTS OR GUARDIANS-- NONSCHOLASTIC YOUTH ATHLETIC ACTIVITY ON SCHOOL DISTRICT PROPERTY--BRAIN INJURY PROTOCOL COMPLIANCE--CERTIFICATION.--

A. A coach shall not allow a student athlete to participate in a school athletic activity on the same day that the student athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a school official or a student athlete reports, observes or suspects that a student athlete exhibiting these signs, symptoms or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

B. A coach may allow a student athlete who has been prohibited from participating in a school athletic activity pursuant to Subsection A of this section to participate in a school athletic activity no sooner than two hundred forty hours from the hour in which the student athlete received a brain injury and only after the student athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional.



C. Each school district shall ensure that each coach participating in school athletic activities in the school district receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The New Mexico activities association shall consult with the brain injury advisory council and school districts to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in school athletic activities to:

(a) understand the nature and risk of brain injury associated with athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach suspects or observes that a student athlete has received a brain injury;

(c) understand the need to alert appropriate medical professionals for urgent diagnosis or treatment; and

(d) understand the need to follow medical direction for proper medical protocols; and

(2) the nature and content of brain injury information forms and educational materials for, and the means of providing these forms and materials to, coaches, student athletes and student athletes' parents or guardians regarding the nature and risk of brain injury resulting from athletic activity, including the risk of continuing or returning to athletic activity after a brain injury.

E. At the beginning of each academic year or participation in school athletic activities, a school district shall provide a brain injury information form created pursuant to Subsection D of this section to a student athlete and the student athlete's parent or guardian. The school district shall receive signatures on the brain injury information form from the student athlete and the student athlete's parent or guardian before permitting the student athlete to begin or continue participating in school athletic activities for that academic year.

F. As a condition of permitting nonscholastic youth athletic activity to take place on school district property, the superintendent of a school district shall require the person offering the nonscholastic youth athletic activity to sign a certification that the nonscholastic youth athletic activity will follow the brain injury protocols established pursuant to Section 2 of this 2016 act.

G. As used in this section:

(1) "academic year" means any consecutive period of two semesters, three quarters or other comparable units commencing with the fall term each year;

(2) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by, but not limited to, blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(3) "licensed health care professional" means:

(a) a practicing physician or physician assistant licensed pursuant to the Medical Practice Act;

(b) a practicing osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic physician's assistant licensed pursuant to the Osteopathic Physicians' Assistants Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the Physical Therapy Act;

(4) "nonscholastic youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Nonscholastic youth athletic activity" does not include an elementary school, middle school, high school, college or university activity or an activity that is incidental to a nonathletic program;

(5) "school athletic activity" means a sanctioned middle school, junior high school or senior high school function that the New Mexico activities association regulates; and

(6) "student athlete" means a middle school, junior high school or senior high school student who engages in, is eligible to engage in or seeks to engage in a school athletic activity."

## Chapter 53 Section 2 Laws 2016

### SECTION 2. BRAIN INJURY--PROTOCOLS--TRAINING OF COACHES--BRAIN INJURY EDUCATION.--

A. A coach shall not allow a youth athlete to participate in a youth athletic activity on the same day that the youth athlete:

(1) exhibits signs, symptoms or behaviors consistent with a brain injury after a coach, a league official or a youth athlete reports, observes or suspects that a youth athlete exhibiting these signs, symptoms or behaviors has sustained a brain injury; or

(2) has been diagnosed with a brain injury.

B. A coach may allow a youth athlete who has been prohibited from participating in a youth athletic activity pursuant to Subsection A of this section to participate in a youth athletic activity no sooner than two hundred forty hours from the hour in which the youth athlete received a brain injury and only after the youth athlete:

(1) no longer exhibits any sign, symptom or behavior consistent with a brain injury; and

(2) receives a written medical release from a licensed health care professional.

C. Each youth athletic league shall ensure that each coach participating in youth athletic activities receives training provided pursuant to Paragraph (1) of Subsection D of this section.

D. The department of health shall consult with the brain injury advisory council to promulgate rules to establish:

(1) protocols and content consistent with current medical knowledge for training each coach participating in youth athletic activities to:

(a) understand the nature and risk of brain injury associated with youth athletic activity;

(b) recognize signs, symptoms or behaviors consistent with a brain injury when a coach suspects or observes that a youth athlete has received a brain injury;

(c) understand the need to alert appropriate medical professionals for urgent diagnosis or treatment; and

(d) understand the need to follow medical direction for proper medical protocols; and

(2) the nature and content of brain injury information forms and educational materials for, and the means of providing these forms and materials to, coaches, youth athletes and youth athletes' parents or guardians regarding the nature and risk of brain injury resulting from youth athletic activity, including the risk of continuing or returning to youth athletic activity after a brain injury.

E. At the beginning of each athletic season or participation in youth athletic activities, a youth athletic league shall provide a brain injury information form created pursuant to Subsection D of this section to a youth athlete and the youth athlete's parent or guardian. The youth athletic league shall receive signatures on the brain injury information form from the youth athlete and the youth athlete's parent or guardian before permitting the youth athlete to begin or continue participating in youth athletic activities for the athletic season or term of participation.

F. As used in this section:

(1) "brain injury" means a body-altering physical trauma to the brain, skull or neck caused by blunt or penetrating force, concussion, diffuse axonal injury, hypoxia-anoxia or electrical charge;

(2) "licensed health care professional" means:

(a) a practicing physician or physician assistant licensed pursuant to the Medical Practice Act;

(b) a practicing osteopathic physician licensed pursuant to Chapter 61, Article 10 NMSA 1978;

(c) a practicing certified nurse practitioner licensed pursuant to the Nursing Practice Act;

(d) a practicing osteopathic physician's assistant licensed pursuant to the Osteopathic Physicians' Assistants Act;

(e) a practicing psychologist licensed pursuant to the provisions of the Professional Psychologist Act;

(f) a practicing athletic trainer licensed pursuant to the provisions of the Athletic Trainer Practice Act; or

(g) a practicing physical therapist licensed pursuant to the provisions of the Physical Therapy Act;

(3) "youth athlete" means an individual under nineteen years of age who engages in, is eligible to engage in or seeks to engage in a community athletic activity; and

(4) "youth athletic activity" means an organized athletic activity in which the participants, a majority of whom are under nineteen years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity. "Youth athletic activity" does not include an elementary school, middle school, high school, college or university activity or an activity that is incidental to a nonathletic program.

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Senate Bill 137, aa

Approved March 4, 2016

## **LAWS 2016, CHAPTER 54**

### **AN ACT**

RELATING TO THE ABUSE AND NEGLECT ACT; AMENDING THE ABUSE AND NEGLECT ACT; ADDING DEFINITIONS; PROVIDING NOTICE TO GRANDPARENTS AND OTHER RELATIVES; CHANGING PROCEDURES FOR PERMANENCY HEARINGS; MODIFYING AND EXPANDING CONFIDENTIALITY PROVISIONS.

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

### **Chapter 54 Section 1 Laws 2016**

SECTION 1. Section 32A-4-1 NMSA 1978 (being Laws 1993, Chapter 77, Section 95) is amended to read:

"32A-4-1. SHORT TITLE.--Chapter 32A, Article 4 NMSA 1978 may be cited as the "Abuse and Neglect Act"."

### **Chapter 54 Section 2 Laws 2016**

SECTION 2. Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

(4) had parental rights over a sibling of the child terminated involuntarily;

D. "fictive kin" means a person not related by birth, adoption or marriage with whom a child has an emotionally significant relationship;

E. "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;

F. "neglected child" means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;

G. "physical abuse" includes but is not limited to any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for the death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;

H. "relative" means a person related to another person by birth, adoption or marriage within the fifth degree of consanguinity;

I. "sexual abuse" includes but is not limited to criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;

J. "sexual exploitation" includes but is not limited to:

(1) allowing, permitting or encouraging a child to engage in prostitution;

(2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing; or

(3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law;

K. "sibling" means a brother or sister having one or both parents in common by birth or adoption; and

L. "transition plan" means an individualized written plan for a child, based on the unique needs of the child, that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation."

## **Chapter 54 Section 3 Laws 2016**

SECTION 3. A new Section 32A-4-17.1 NMSA 1978 is enacted to read:

"32A-4-17.1. NOTICE TO GRANDPARENTS AND RELATIVES.--Within thirty days after a child is taken into custody by law enforcement, or when the department files a petition seeking legal custody of the child, whichever occurs first, the department shall exercise due diligence and make reasonable efforts to identify and provide notice to all grandparents; all parents of a sibling of the child, when the parent has legal custody of the sibling; and other adult relatives of the child, including adult relatives suggested by the parents, unless such notice would be contrary to the best interests of the child due to family or domestic violence. The notice shall:



A. specify that the child has been or is being removed from the custody of the parent or parents of the child;

B. explain the options the relative has under federal, state or other law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice;

C. describe the requirements for becoming a foster family home and the additional services and support that are available for children placed in such a home; and

D. set out the dates of any currently scheduled court hearings that involve the child."

## **Chapter 54 Section 4 Laws 2016**

SECTION 4. Section 32A-4-18 NMSA 1978 (being Laws 1993, Chapter 77, Section 112, as amended) is amended to read:

"32A-4-18. CUSTODY HEARINGS--TIME LIMITATIONS--NOTICE--PROBABLE CAUSE.--

A. When a child alleged to be neglected or abused has been placed in the legal custody of the department or the department has petitioned the court for temporary custody, a custody hearing shall be held within ten days from the date the petition is filed to determine if the child should remain in or be placed in the department's custody pending adjudication. Upon written request of the respondent, the hearing may be held earlier, but in no event shall the hearing be held sooner than two days after the date the petition was filed.

B. The parent, guardian or custodian of the child alleged to be abused or neglected shall be given reasonable notice of the time and place of the custody hearing.

C. At the custody hearing, the court shall return legal custody of the child to the child's parent, guardian or custodian unless probable cause exists to believe that:

(1) the child is suffering from an illness or injury, and the parent, guardian or custodian is not providing adequate care for the child;

(2) the child is in immediate danger from the child's surroundings, and removal from those surroundings is necessary for the child's safety or well-being;

(3) the child will be subject to injury by others if not placed in the custody of the department;

(4) there has been an abandonment of the child by the child's parent, guardian or custodian; or

(5) the parent, guardian or custodian is not able or willing to provide adequate supervision and care for the child.

D. At the conclusion of the custody hearing, if the court determines that probable cause exists pursuant to Subsection C of this section, the court may:

(1) return legal custody of the child to the child's parent, guardian or custodian upon such conditions as will reasonably ensure the safety and well-being of the child, including protective supervision by the department; or

(2) award legal custody of the child to the department.

E. Reasonable efforts shall be made to preserve and reunify the family, with the paramount concern being the child's health and safety. When the department determines that the home of an adult relative of the child meets all relevant child protection and licensing standards and placement in the home would be in the best interest of the child, the department shall give a preference to placement of the child in that home. The department shall make reasonable efforts to conduct home studies on appropriate relatives who express an interest in providing placement for the child.

F. At the conclusion of the custody hearing, if the court determines that probable cause does not exist pursuant to Subsection C of this section, the court shall:

(1) retain jurisdiction and, unless the court permits otherwise, order that the respondent and child remain in the jurisdiction of the court pending the adjudication;

(2) return legal custody of the child to the child's parent, guardian or custodian with conditions to provide for the safety and well-being of the child; and

(3) order that the child's parent, guardian or custodian allow the child necessary contact with the child's guardian ad litem or attorney.

G. At the conclusion of the custody hearing, the court may order the respondent or the child alleged to be neglected or abused, or both, to undergo appropriate diagnostic examinations or evaluations. If the court determines that probable cause does not exist, the court may order the respondent or the child alleged to be neglected or abused, or both, to undergo appropriate diagnostic examinations or evaluations as necessary to protect the child's best interests, based upon the allegations in the petition and the evidence presented at the custody hearing. Copies of any diagnostic or evaluation reports ordered by the court shall be provided to the parties at least five days before the adjudicatory hearing is scheduled. The reports shall not be sent to the court.

H. The Rules of Evidence shall not apply to custody hearings.

I. Notwithstanding any other provision of law, a party aggrieved by an order entered pursuant to this section shall be permitted to file an immediate appeal as a matter of right. If the order appealed from grants the legal custody of the child to or withholds it from one or more of the parties to the appeal, the appeal shall be expedited and shall be heard at the earliest practicable time. While an appeal pursuant to this section is pending, the court shall have jurisdiction to take further action in the case pursuant to Subsection B of Section 32A-1-17 NMSA 1978.

J. Nothing in this section shall be construed to abridge the rights of Indian children pursuant to the federal Indian Child Welfare Act of 1978."

## **Chapter 54 Section 5 Laws 2016**

SECTION 5. Section 32A-4-21 NMSA 1978 (being Laws 1993, Chapter 77, Section 115, as amended) is amended to read:

"32A-4-21. NEGLECT OR ABUSE PREDISPOSITION STUDIES, REPORTS AND EXAMINATIONS.--

A. Prior to holding a dispositional hearing, the court shall direct that a predisposition study and report be submitted in writing to the court by the department.

B. The predisposition study required pursuant to Subsection A of this section shall contain the following information:

(1) a statement of the specific reasons for intervention by the department or for placing the child in the department's custody and a statement of the parent's ability to care for the child in the parent's home without causing harm to the child;

(2) a statement of how an intervention plan is designed to achieve placement of the child in the least restrictive setting available, consistent with the best interests and special needs of the child, including a statement of the likely harm the child may suffer as a result of being removed from the parent's home, including emotional harm that may result due to separation from the child's parents, and a statement of how the intervention plan is designed to place the child in close proximity to the parent's home without causing harm to the child due to separation from parents, siblings or any other person who may significantly affect the child's best interest;

(3) the wishes of the child as to the child's custodian;

(4) a statement of the efforts the department has made to identify and locate all grandparents and other relatives and to conduct home studies on any appropriate relative expressing an interest in providing care for the child, and a

statement as to whether the child has a family member who, subsequent to study by the department, is determined to be qualified to care for the child;

(5) a description of services offered to the child, the child's family and the child's foster care family and a summary of reasonable efforts made to prevent removal of the child from the child's family or reasonable efforts made to reunite the child with the child's family;

(6) a description of the home or facility in which the child is placed and the appropriateness of the child's placement;

(7) the results of any diagnostic examination or evaluation ordered at the custody hearing;

(8) a statement of the child's medical and educational background;

(9) if the child is an Indian child, whether the placement preferences set forth in the federal Indian Child Welfare Act of 1978 or the placement preferences of the child's Indian tribe were followed and whether the child's case plan provides for maintaining the child's cultural ties;

(10) a case plan that sets forth steps to ensure that the child's physical, medical, psychological and educational needs are met and that sets forth services to be provided to the child and the child's parents to facilitate permanent placement of the child in the parent's home;

(11) for children sixteen years of age and older, a plan for developing the specific skills the child requires for successful transition into independent living as an adult, regardless of whether the child is returned to the child's parent's home;

(12) a case plan that sets forth steps to ensure that the child's educational needs are met and, for a child fourteen years of age or older, a case plan that specifically sets forth the child's educational and post-secondary goals; and

(13) a description of the child's foster care placement and whether it is appropriate in terms of the educational setting and proximity to the school the child was enrolled in at the time of the placement, including plans for travel for the child to remain in the school in which the child was enrolled at the time of placement, if reasonable and in the child's best interest.

C. A copy of the predisposition report shall be provided by the department to counsel for all parties five days before the dispositional hearing.

D. If the child is an adjudicated abused child, any temporary custody orders shall remain in effect until the court has received and considered the predispositional study at the dispositional hearing."

## **Chapter 54 Section 6 Laws 2016**

SECTION 6. Section 32A-4-22 NMSA 1978 (being Laws 1993, Chapter 77, Section 116, as amended) is amended to read:

"32A-4-22. DISPOSITION OF ADJUDICATED ABUSED OR NEGLECTED CHILD.--

A. If not held in conjunction with the adjudicatory hearing, the dispositional hearing shall be commenced within thirty days after the conclusion of the adjudicatory hearing. At the conclusion of the dispositional hearing, the court shall make and include in the dispositional judgment its findings on the following:

(1) the interaction and interrelationship of the child with the child's parent, siblings and any other person who may significantly affect the child's best interest;

(2) the child's adjustment to the child's home, school and community;

(3) the mental and physical health of all individuals involved;

(4) the wishes of the child as to the child's placement;

(5) the wishes of the child's parent, guardian or custodian as to the child's custody;

(6) whether reasonable efforts have been made by the department to identify, locate and give notice to all grandparents and other relatives and to conduct home studies on any appropriate relative who expresses an interest in providing care for the child. If the court finds that reasonable efforts in these areas have not been made, the court may make supplemental orders as necessary and may reconsider the matter at the initial judicial review and subsequent periodic review hearings;

(7) whether consideration has been given to the child's familial identity and connections;

(8) whether there exists a relative of the child or other individual who, after study by the department, is found to be qualified to receive and care for the child;

(9) the availability of services recommended in the case plan prepared as a part of the predisposition study in accordance with the provisions of Section 32A-4-21 NMSA 1978;

(10) the ability of the parent to care for the child in the home so that no harm will result to the child;

(11) whether reasonable efforts were made by the department to prevent removal of the child from the home prior to placement in substitute care and whether reasonable efforts were made to attempt reunification of the child with the natural parent;

(12) whether reasonable efforts were made by the department to place siblings in custody together, unless such joint placement would be contrary to the safety or well-being of any of the siblings in custody, and whether any siblings not jointly placed have been provided reasonable visitation or other ongoing interaction, unless visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings; and

(13) if the child is an Indian child, whether the placement preferences set forth in the federal Indian Child Welfare Act of 1978 or the placement preferences of the child's Indian tribe have been followed and whether the Indian child's case plan provides for maintaining the Indian child's cultural ties. When placement preferences have not been followed, good cause for noncompliance shall be clearly stated and supported.

B. If a child is found to be neglected or abused, the court may enter its judgment making any of the following dispositions to protect the welfare of the child:

(1) permit the child to remain with the child's parent, guardian or custodian, subject to those conditions and limitations the court may prescribe;

(2) place the child under protective supervision of the department;  
or

(3) transfer legal custody of the child to one of the following:

(a) the noncustodial parent, if it is found to be in the child's best interest; or

(b) the department.

C. If a child is found to be neglected or abused, in its dispositional judgment the court shall also order the department to implement and the child's parent, guardian or custodian to cooperate with any case plan approved by the court. Reasonable efforts shall be made to preserve and reunify the family, with the

paramount concern being the child's health and safety. The court may determine that reasonable efforts are not required to be made when the court finds that:

(1) the efforts would be futile; or

(2) the parent, guardian or custodian has subjected the child to aggravated circumstances.

D. Any parent, guardian or custodian of a child who is placed in the legal custody of the department or other person pursuant to Subsection B of this section shall have reasonable rights of visitation with the child as determined by the court, unless the court finds that the best interests of the child preclude any visitation.

E. The court may order reasonable visitation between a child placed in the custody of the department and the child's siblings or any other person who may significantly affect the child's best interest, if the court finds the visitation to be in the child's best interest.

F. Unless a child found to be neglected or abused is also found to be delinquent, the child shall not be confined in an institution established for the long-term care and rehabilitation of delinquent children.

G. When the court vests legal custody in an agency, institution or department, the court shall transmit with the dispositional judgment copies of the clinical reports, the predisposition study and report and any other information it has pertinent to the care and treatment of the child.

H. Prior to a child being placed in the custody or protective supervision of the department, the department shall be provided with reasonable oral or written notification and an opportunity to be heard. At any hearing held pursuant to this subsection, the department may appear as a party.

I. When a child is placed in the custody of the department, the department shall investigate whether the child is eligible for enrollment as a member of an Indian tribe and, if so, the department shall pursue the enrollment on the child's behalf.

J. When the court determines pursuant to Subsection C of this section that no reasonable efforts at reunification are required, the court shall conduct, within thirty days, a permanency hearing as described in Section 32A-4-25.1 NMSA 1978. Reasonable efforts shall be made to implement and finalize the permanency plan in a timely manner."

## **Chapter 54 Section 7 Laws 2016**

SECTION 7. Section 32A-4-25.1 NMSA 1978 (being Laws 1997, Chapter 34, Section 8, as amended) is amended to read:

"32A-4-25.1. PERMANENCY HEARINGS--PERMANENCY REVIEW HEARINGS.--

A. A permanency hearing shall be commenced within six months of the initial judicial review of a child's dispositional order or within twelve months of a child entering foster care pursuant to Subsection D of this section, whichever occurs first. Prior to the initial permanency hearing, all parties to the hearing shall attend a mandatory meeting and attempt to settle issues attendant to the permanency hearing and develop a proposed case plan that serves the child's best interest. Prior to the initial permanency hearing, the department shall submit a progress report regarding the child to the local substitute care review board for that judicial district. The local substitute care review board may review the child's dispositional order, any continuation of that order and the department's progress report and report its findings and recommendations to the court.

B. At the permanency hearing, all parties shall have the opportunity to present evidence and to cross-examine witnesses. At the conclusion of the permanency hearing, the court shall order one of the following permanency plans for the child:

(1) reunification;

(2) placement for adoption after the parents' rights have been relinquished or terminated or after a motion has been filed to terminate parental rights;

(3) placement with a person who will be the child's permanent guardian;

(4) placement in the legal custody of the department with the child placed in the home of a fit and willing relative; or

(5) placement in the legal custody of the department under a planned permanent living arrangement, provided that there is substantial evidence that none of the above plans is appropriate for the child.

C. If the court adopts a permanency plan of reunification, the court shall adopt a plan for transitioning the child home within a reasonable period depending on the facts and circumstances of the case, but not to exceed six months, and schedule a permanency review hearing within three months. If the child is reunified, the subsequent hearing may be vacated.

D. At the permanency review hearing, all parties and the child's guardian ad litem or attorney shall have the opportunity to present evidence and cross-examine witnesses. Based on the evidence, the court shall:

(1) change the plan from reunification to one of the alternative plans provided in Subsection B of this section;



(2) dismiss the case and return custody of the child to the child's parent, guardian or custodian;

(3) continue legal custody of the child in the department to complete a transition home to the child's parent, guardian or custodian and continue the case plan for not more than six months, after which the case shall be dismissed unless the plan is changed as provided in Paragraph (1) of this subsection; or

(4) return the child to the custody of the child's parent, guardian or custodian, subject to any conditions or limitations as the court may prescribe, including protective supervision of the child by the department and continuation of the case plan for not more than six months, after which the case shall be dismissed. The department may seek removal of a child from the home by obtaining an order in the pending case or by seeking emergency removal under Section 32A-4-6 NMSA 1978 during the period of protective supervision if the child's best interest requires such action. When a child is removed in this situation, a permanency hearing shall be scheduled within thirty days of the child coming back into the department's legal custody.

E. The court shall hold a permanency hearing and adopt a permanency plan for a child within twelve months of the child entering foster care. For purposes of this section, a child shall be considered to have entered foster care on the earlier of:

(1) the date of the first judicial finding that the child has been abused or neglected; or

(2) sixty days after the date on which the child was removed from the home.

F. The court shall hold permanency hearings every twelve months when a child is in the legal custody of the department.

G. The children's court attorney shall give notice to all parties, including the child by and through the child's guardian ad litem or attorney, the child's CASA, a contractor administering the local substitute care review board and the child's foster parent or substitute care provider of the time, place and purpose of any permanency hearing or permanency review hearing held pursuant to this section.

H. The Rules of Evidence shall not apply to permanency hearings. The court may admit testimony by any person given notice of the permanency hearing who has information about the status of the child or the status of the treatment plan. All testimony shall be subject to cross-examination."

## **Chapter 54 Section 8 Laws 2016**

SECTION 8. Section 32A-4-33 NMSA 1978 (being Laws 1993, Chapter 77, Section 127, as amended) is amended to read:

"32A-4-33. CONFIDENTIALITY--RECORDS--PENALTY.--

A. All records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding shall be confidential and closed to the public.

B. The records described in Subsection A of this section shall be disclosed only to the parties and:

(1) court personnel and persons or entities authorized by contract with the court to review, inspect or otherwise have access to records or information in the court's possession;

(2) court-appointed special advocates appointed to the neglect or abuse proceeding;

(3) the child's guardian ad litem;

(4) the attorney representing the child in an abuse or neglect action, a delinquency action or any other action under the Children's Code;

(5) department personnel and persons or entities authorized by contract with the department to review, inspect or otherwise have access to records or information in the department's possession;

(6) any local substitute care review board or any agency contracted to implement local substitute care review boards;

(7) law enforcement officials, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(8) district attorneys, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(9) any state government social services agency in any state or when, in the opinion of the department it is in the best interest of the child, a governmental social services agency of another country;

(10) those persons or entities of an Indian tribe specifically authorized to inspect the records pursuant to the federal Indian Child Welfare Act of 1978 or any regulations promulgated thereunder;

(11) a foster parent, if the records are those of a child currently placed with that foster parent or of a child being considered for placement with that foster parent and the records concern the social, medical, psychological or educational needs of the child;

(12) school personnel involved with the child if the records concern the child's social or educational needs;

(13) a grandparent, parent of a sibling, relative or fictive kin, if the records or information pertain to a child being considered for placement with that grandparent, parent of a sibling, relative or fictive kin and the records or information concern the social, medical, psychological or educational needs of the child;

(14) health care or mental health professionals involved in the evaluation or treatment of the child or of the child's parents, guardian, custodian or other family members;

(15) protection and advocacy representatives pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991;

(16) children's safehouse organizations conducting investigatory interviews of children on behalf of a law enforcement agency or the department;

(17) representatives of the federal government or their contractors authorized by federal statute or regulation to review, inspect, audit or otherwise have access to records and information pertaining to neglect or abuse proceedings;

(18) any person or entity attending a meeting arranged by the department to discuss the safety, well-being and permanency of a child, when the parent or child, or parent or legal custodian on behalf of a child younger than fourteen years of age, has consented to the disclosure; and

(19) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court.

C. A parent, guardian or legal custodian whose child has been the subject of an investigation of abuse or neglect where no petition has been filed shall have the right to inspect any medical report, psychological evaluation, law enforcement reports or other investigative or diagnostic evaluation; provided that any identifying information related to the reporting party or any other party providing information shall be deleted. The parent, guardian or legal custodian shall also have the right to the results of the investigation and the right to petition the court for full access to all department records and information except those records and information the department finds would be likely to endanger the life or safety of any person providing information to the department.

D. Whoever intentionally and unlawfully releases any information or records closed to the public pursuant to the Abuse and Neglect Act or releases or makes other unlawful use of records in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

E. The department shall promulgate rules for implementing disclosure of records pursuant to this section and in compliance with state and federal law and the Children's Court Rules."

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House Bill 28

Approved March 4, 2016

## **LAWS 2016, CHAPTER 55**

AN ACT

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

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

### **Chapter 55 Section 1 Laws 2016**

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to the provisions of Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualifying entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the city of Anthony in Dona Ana county for a flood prevention project;
2. to the village of Corrales in Sandoval county for a flood prevention project;
3. to the eastern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
4. to the southern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;

5. to the upper Hondo soil and water conservation district in Lincoln county for a flood prevention project;

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

7. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;

8. to the Claunch-Pinto soil and water conservation district in Torrance county for an additional watershed restoration and management project;

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

10. to the town of Mesilla in Dona Ana county for a water conservation or treatment, recycling or reuse project;

11. to the village of Cimarron in Colfax county for a water conservation or treatment, recycling or reuse project;

12. to the Agua Sana water users association in Rio Arriba county for a water conservation or treatment, recycling or reuse project;

13. to Los Alamos county for a water conservation or treatment, recycling or reuse project;

14. to the Cuatro Villas mutual domestic water users association in Santa Fe county for a water conservation or treatment, recycling or reuse project;

15. to the city of Carlsbad in Eddy county for a water conservation or treatment, recycling or reuse project;

16. to the Pueblo of Tesuque in Santa Fe county for a water conservation or treatment, recycling or reuse project;

17. to the city of Hobbs in Lea county for a water conservation or treatment, recycling or reuse project;

18. to the city of Santa Fe in Santa Fe county for a water conservation or treatment, recycling or reuse project;

19. to the town of Bernalillo in Sandoval county for a water conservation or treatment, recycling or reuse project;

20. to the Acequia de la Isla in Mora county for a water storage, conveyance and delivery project;
21. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a water storage, conveyance and delivery project;
22. to the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
23. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;
24. to the city of Bloomfield in San Juan county for a water storage, conveyance and delivery project;
25. to the Buena Vista mutual domestic water consumers association in Mora county for a water storage, conveyance and delivery project;
26. to the city of Deming in Luna county for a water storage, conveyance and delivery project;
27. to the village of Eagle Nest in Colfax county for a water storage, conveyance and delivery project;
28. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;
29. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;
30. to the Eldorado area water and sanitation district in Santa Fe county for an additional water storage, conveyance and delivery project;
31. to El Salto mutual domestic water consumers' and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;
32. to the greater Glorieta mutual domestic water consumers association in Santa Fe county for a water storage, conveyance and delivery project;
33. to the Pueblo of Isleta in Bernalillo county for a water storage, conveyance and delivery project;
34. to the city of Jal in Lea county for a water storage, conveyance and delivery project;

35. to the Jemez Springs domestic water association in Sandoval county for a water storage, conveyance and delivery project;

36. to the village of Los Lunas in Valencia county for a water storage, conveyance and delivery project;

37. to the lower Arroyo Hondo mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;

38. to the village of Melrose in Curry county for a water storage, conveyance and delivery project;

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

40. to the Santa Cruz irrigation district in Rio Arriba and Santa Fe counties for a water storage, conveyance and delivery project;

41. to the town of Taos in Taos county for a water storage, conveyance and delivery project; and

42. to the city of Truth or Consequences in Sierra county for a water storage, conveyance and delivery project.

## **Chapter 55 Section 2 Laws 2016**

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 167, w/ec

Approved March 4, 2016

## **LAWS 2016, CHAPTER 56**

AN ACT

RELATING TO PUBLIC EDUCATION; ELIMINATING HIGHER EDUCATION OR CAREER READINESS ASSESSMENT SYSTEM REQUIREMENTS FOR STUDENTS IN GRADES NINE AND TEN.

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

## Chapter 56 Section 1 Laws 2016

SECTION 1. Section 22-2C-4.1 NMSA 1978 (being Laws 2007, Chapter 307, Section 4 and Laws 2007, Chapter 308, Section 4, as amended) is amended to read:

### "22-2C-4.1. STATEWIDE COLLEGE AND WORKPLACE READINESS ASSESSMENT SYSTEM.--

A. The department shall establish a readiness assessment system to measure the readiness of every New Mexico high school student for success in higher education or a career no later than the 2008-2009 school year. The department shall ensure that the readiness assessment system is aligned with state academic content and performance standards, college placement tests and entry-level career skill requirements. The readiness assessment system shall include, for grade eleven, in the fall, one or more of the following components chosen by the student:

- (1) a college placement assessment;
- (2) a workforce readiness assessment; or
- (3) an alternative demonstration of competency using standards-based indicators.

B. Students shall participate in the readiness assessment system at no cost to the student.

C. Reports of assessment results shall be provided to students and parents in writing whenever possible but, if necessary, orally in the language best understood by each student and parent.

D. The department shall adopt standards for reasonable accommodations in the administration of readiness assessments for students with disabilities and limited English proficiency, including when and how accommodations may be applied.

E. In developing, selecting or approving the high school or college readiness assessments for school district or charter school use, the department may adopt commercially available standards-based assessments or approve a school district's or charter school's short-cycle assessments that meet the requirements of this section. The department shall involve appropriate licensed school employees in the development or selection of readiness assessments."

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House Bill 97

Approved March 7, 2016



# **LAWS 2016, CHAPTER 57**

## **AN ACT**

RELATING TO ECONOMIC DEVELOPMENT; CREATING A PROGRAM TO ENCOURAGE SOLO-WORKER JOB CREATION AND INCREASE THE COMMERCIAL REVENUE DERIVING FROM OUT-OF-STATE SOURCES.

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

### **Chapter 57 Section 1 Laws 2016**

#### **SECTION 1. SOLO-WORKER PROGRAM.--**

##### **A. As used in this section:**

(1) "economic-base job" means a job in which sixty percent or more of the revenue generated from the goods or services produced derives from outside the state;

(2) "program agency" means a certified business incubator, a community college or an organization whose purpose is to create jobs and promote economic development; and

(3) "solo worker" means a person who is engaged in full-time employment and whose employer, if any, does not supply the office space or amenities used to perform the person's work.

B. The "solo-worker program" is created in the economic development department. The purpose of the solo-worker program is to improve the state's rural and urban economies by creating and sustaining economic-base jobs and expanding businesses owned and operated by solo workers engaged in economic-base jobs.

C. To carry out the purpose of the solo-worker program, the department shall provide matching funding, if other funds become available, to program agencies for advancing initiatives that:

(1) create opportunities for New Mexico residents to become solo workers engaged in economic-base jobs;

(2) support the continued employment and business expansion of existing solo workers engaged in economic-base jobs;

(3) recruit from outside of the state solo workers engaged in economic-base jobs; and

(4) make the state and its local communities more competitive for creating, attracting and retaining solo-worker jobs.

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House Bill 177, aa

Approved March 7, 2016

## **LAWS 2016, CHAPTER 58**

AN ACT

RELATING TO TRANSPORTATION; AMENDING THE MOTOR CARRIER ACT TO REMOVE A CONFLICT WITH FEDERAL LAW; DECLARING AN EMERGENCY.

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

### **Chapter 58 Section 1 Laws 2016**

SECTION 1. A new section of the Motor Carrier Act is enacted to read:

"FINDINGS.--The legislature finds that:

A. the federal Older Americans Act of 1965 was enacted in part to allow older Americans to continue "meaningful activity within the widest range of civic, cultural, education and training and recreational opportunities";

B. federal funding through Title III B of the Older Americans Act of 1965 supplements, but does not supplant, funding for transportation services for older Americans; and

C. the Older Americans Act of 1965 specifically authorizes the solicitation of voluntary contributions for services supplemented by Title III B funding as long as the solicitation is not coercive."

### **Chapter 58 Section 2 Laws 2016**

SECTION 2. Section 65-2A-7 NMSA 1978 (being Laws 2003, Chapter 359, Section 7, as amended by Laws 2013, Chapter 73, Section 6 and by Laws 2013, Chapter 77, Section 6) is amended to read:

"65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

A. Other than an entity receiving funding to supplement transportation services through Title III B of the federal Older Americans Act of 1965, 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 58 Section 3 Laws 2016**

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 252, aa, w/ec

Approved March 7, 2016

## **LAWS 2016, CHAPTER 59**

AN ACT

RELATING TO DISASTER RESPONSE; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978 TO PROVIDE FOR TEMPORARY EXEMPTIONS TO TAXATION AND PROFESSIONAL LICENSURE OF NONRESIDENT PERSONS

IN THE STATE FOR DISASTER RESPONSE.

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

## **Chapter 59 Section 1 Laws 2016**

SECTION 1. Section 7-2-11 NMSA 1978 (being Laws 1965, Chapter 202, Section 9, as amended) is amended to read:

"7-2-11. TAX CREDIT--INCOME ALLOCATION AND APPORTIONMENT.--

A. Net income of any individual having income that is taxable both within and without this state shall be apportioned and allocated as follows:

(1) during the first taxable year in which an individual incurs tax liability as a resident, only income earned on or after the date the individual became a resident and, in addition, income earned in New Mexico while a nonresident of New Mexico shall be allocated to New Mexico;

(2) except as provided otherwise in Paragraph (1) of this subsection, income other than compensation or gambling winnings shall be allocated and apportioned as provided in the Uniform Division of Income for Tax Purposes Act, but if the income is not allocated or apportioned by that act, then it may be allocated or apportioned in accordance with instructions, rulings or regulations of the secretary;

(3) except as provided otherwise in Paragraph (1) of this subsection, compensation and gambling winnings of a resident taxpayer shall be allocated to this state;

(4) compensation of a nonresident taxpayer shall be allocated to this state to the extent that such compensation is for activities, labor or personal services within this state; provided that the compensation may be allocated to the taxpayer's state of residence:

(a) if the activities, labor or services are performed in this state for fifteen or fewer days during the taxpayer's taxable year;

(b) if the compensation is for activities, labor or services performed for a business in the manufacturing industry in New Mexico that is located within twenty miles of an international border, that has a minimum of five full-time employees who are New Mexico residents, that is not receiving development training funds under Section 21-19-7 NMSA 1978 and that meets the qualifications of one of Items 1) through 4) of this subparagraph: 1) the business had no payroll in New Mexico during the previous calendar year; 2) the business had a payroll in New Mexico for less than the entire previous calendar year, and the first payroll of the new calendar year includes payments to New Mexico residents exceeding the highest monthly payroll for such residents in the previous calendar year; 3) the business had a payroll in New Mexico for the entire previous calendar year, and the first payroll of the new calendar year includes payments to New Mexico residents exceeding by at least ten percent both the payroll for all employees in January 2001 and the payroll for New Mexico residents twelve months prior to the commencement of the new calendar year; or 4) the business had a payroll in New Mexico for the entire previous calendar year, but had no payroll in New Mexico within one year prior to January 1, 2001, and the first payroll of the new calendar year includes payments to New Mexico residents exceeding by at least ten percent the payroll for such residents twelve months earlier; or

(c) if the activities, labor or services are performed in this state for disaster- or emergency-related critical infrastructure work in response to a declared state disaster or emergency during a disaster response period, as defined in the Tax Administration Act;

(5) gambling winnings of a nonresident shall be allocated to this state if the gambling winnings arose from a source within this state; and

(6) other deductions and exemptions allowable in computing net income and not specifically allocated in the Uniform Division of Income for Tax Purposes Act shall be equitably allocated or apportioned in accordance with instructions, rulings or regulations of the secretary.

B. For the purposes of this section, "non-New Mexico percentage" means the percentage determined by dividing the difference between the taxpayer's net income and the sum of the amounts allocated or apportioned to New Mexico by that net income.

C. A taxpayer may claim a credit in an amount equal to the amount of tax determined to be due under Section 7-2-7 or 7-2-7.1 NMSA 1978 multiplied by the non-New Mexico percentage."

## **Chapter 59 Section 2 Laws 2016**

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

"BUSINESS AND EMPLOYEE STATUS DURING DISASTER RESPONSE PERIOD.--

A. An out-of-state business that conducts operations within the state for purposes of performing disaster- or emergency-related work in response to a declared state disaster or emergency during the disaster response period shall not be considered to have established a level of presence that would require that business to register, file or remit state or local taxes or fees, including gross receipts taxes or property tax on equipment brought into the state temporarily for use during the disaster response period and subsequently removed from the state. For purposes of any state or local tax on or measured by, in whole or in part, net or gross income or receipts, all activity of the out-of-state business that is conducted in this state pursuant to this section shall be disregarded with respect to any filing requirements for such tax, including the filing required for a unitary or combined group of which the out-of-state business may be a part. For the purpose of apportioning income, revenue or receipts, the performance by an out-of-state business of any work in accordance with this section shall not be sourced to or otherwise impact or increase the amount of income, revenue or receipts apportioned to this state.

B. An out-of-state employee shall not be considered to have established residency or a presence in the state that would require that person or that person's

employer to file and pay income taxes or to be subjected to tax withholdings or to file and pay any other state or local tax or fee during the disaster response period. This includes any related state or local employer withholding and remittance obligations but does not include any transaction taxes or fees pursuant to Subsection C of this section.

C. Out-of-state businesses and out-of-state employees shall be required to pay transaction taxes and fees, including fuel taxes or gross receipts taxes on materials or services consumed or used in the state subject to gross receipts tax, hotel taxes, car rental taxes or fees that the out-of-state affiliated business or out-of-state employee purchases for use or consumption in the state during the disaster response period, unless such taxes are otherwise exempted during a disaster response period.

D. An out-of-state business or out-of-state employee that remains in the state after the disaster response period will become subject to the state's normal standards for establishing residency or presence or doing business in the state and will therefore become responsible for any business or employee tax requirements that ensue.

E. As used in this section:

(1) "critical infrastructure" means property, equipment and related support facilities that service multiple customers or residents, including real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment that is owned or used by:

(a) communications networks;

(b) electric generation, transmission and distribution systems;

(c) natural gas and natural gas liquids gathering, processing, storage, transmission and distribution systems;

(d) crude oil and refined product pipelines; and

(e) water pipelines;

(2) "declared state disaster or emergency" means a disaster or emergency event for which:

(a) a governor's state of emergency proclamation has been issued;

(b) a presidential declaration of a federal major disaster or emergency has been issued; or

(c) another authorized official of the state receives notification from a registered business of a disaster or emergency and that official designates the event as a declared state disaster or emergency, thereby invoking the provisions of this section;

(3) "disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services or conducting other business activities that relate to critical infrastructure that has been damaged, impaired or destroyed by a declared state disaster or emergency;

(4) "disaster response period" means a period that begins ten days prior to the first day of the governor's proclamation, the president's declaration or the designation by another authorized official of the state of a declared state disaster or emergency and that extends sixty calendar days after the declared state disaster or emergency;

(5) "out-of-state business" means a business entity that, except for disaster- or emergency-related work, has no presence in the state and that conducts no business in the state and whose services are requested by a registered business or by a state or local government for purposes of performing disaster- or emergency-related work in the state. "Out-of-state business" includes a business entity that is affiliated with a registered business in the state solely through common ownership and that has no registrations or tax filings or nexus in the state other than disaster- or emergency-related work during the tax year immediately preceding the declared state disaster or emergency;

(6) "out-of-state employee" means an employee who does not work in the state, except for disaster- or emergency-related work during the disaster response period; and

(7) "registered business in the state" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency."

## **Chapter 59 Section 3 Laws 2016**

SECTION 3. A new section of the Emergency Licensing Act is enacted to read:

**"BUSINESS AND EMPLOYEE STATUS DURING DISASTER RESPONSE PERIOD.--**

A. An out-of-state business that conducts operations within the state for purposes of performing disaster- or emergency-related work in response to a declared state disaster or emergency during the disaster response period shall not be considered to have established a level of presence that would require that business to be subject to any state licensing or registration requirements, including any state or local business

licensing or registration requirements or public regulation commission or secretary of state licensing and regulatory requirements.

B. An out-of-state employee performing disaster- or emergency-related work during the disaster response period shall not be subject to any state licensing or registration requirements.

C. As used in this section:

(1) "critical infrastructure" means property, equipment and related support facilities that service multiple customers or residents, including real and personal property such as buildings, offices, lines, poles, pipes, structures and equipment that is owned or used by:

(a) communications networks;

(b) electric generation, transmission and distribution systems;

(c) natural gas and natural gas liquids gathering, processing, storage, transmission and distribution systems;

(d) crude oil and refined product pipelines; and

(e) water pipelines;

(2) "declared state disaster or emergency" means a disaster or emergency event for which:

(a) a governor's state-of-emergency proclamation has been issued;

(b) a presidential declaration of a federal major disaster or emergency has been issued; or

(c) another authorized official of the state receives notification from a registered business of a disaster or emergency and that official designates the event as a declared state disaster or emergency, thereby invoking the provisions of this section;

(3) "disaster- or emergency-related work" means repairing, renovating, installing, building, rendering services or conducting other business activities that relate to critical infrastructure that has been damaged, impaired or destroyed by a declared state disaster or emergency;



(4) "disaster response period" means a period that begins ten days prior to the first day of the governor's proclamation, the president's declaration or the designation by another authorized official of the state of a declared state disaster or emergency and that extends sixty calendar days after the declared state disaster or emergency;

(5) "out-of-state business" means a business entity that, except for disaster- or emergency-related work, has no presence in the state and that conducts no business in the state and whose services are requested by a registered business or by a state or local government for purposes of performing disaster- or emergency-related work in the state. "Out-of-state business" includes a business entity that is affiliated with a registered business in the state solely through common ownership and that has no registrations or tax filings or nexus in the state other than disaster- or emergency-related work during the tax year immediately preceding the declared state disaster or emergency;

(6) "out-of-state employee" means an employee who does not work in the state, except for disaster- or emergency-related work during the disaster response period; and

(7) "registered business in the state" means a business entity that is currently registered to do business in the state prior to the declared state disaster or emergency."

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Senate Bill 19, aa

Approved March 7, 2016

## **LAWS 2016, CHAPTER 60**

### **AN ACT**

RELATING TO CHILDREN; AMENDING SECTIONS OF THE CHILDREN'S CODE, THE ABUSE AND NEGLECT ACT AND THE CITIZEN SUBSTITUTE CARE REVIEW ACT; CREATING THE SUBSTITUTE CARE ADVISORY COUNCIL; TRANSFERRING FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND REFERENCES IN LAW; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

**Chapter 60 Section 1 Laws 2016**

SECTION 1. Section 32A-1-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 13, as amended) is amended to read:

"32A-1-4. DEFINITIONS.--As used in the Children's Code:

A. "adult" means a person who is eighteen years of age or older;

B. "child" means a person who is less than eighteen years old;

C. "council" means the substitute care advisory council established pursuant to Section 32A-8-4 NMSA 1978;

D. "court", when used without further qualification, means the children's court division of the district court and includes the judge, special master or commissioner appointed pursuant to the provisions of the Children's Code or supreme court rule;

E. "court-appointed special advocate" means a person appointed pursuant to the provisions of the Children's Court Rules to assist the court in determining the best interests of the child by investigating the case and submitting a report to the court;

F. "custodian" means an adult with whom the child lives who is not a parent or guardian of the child;

G. "department" means the children, youth and families department, unless otherwise specified;

H. "disproportionate minority contact" means the involvement of a racial or ethnic group with the criminal or juvenile justice system at a proportion either higher or lower than that group's proportion in the general population;

I. "foster parent" means a person, including a relative of the child, licensed or certified by the department or a child placement agency to provide care for children in the custody of the department or agency;

J. "guardian" means a person appointed as a guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law;

K. "guardian ad litem" means an attorney appointed by the children's court to represent and protect the best interests of the child in a case; provided that no party or employee or representative of a party to the case shall be appointed to serve as a guardian ad litem;

L. "Indian child" means an unmarried person who is:

- (1) less than eighteen years old;
- (2) a member of an Indian tribe or is eligible for membership in an Indian tribe; and
- (3) the biological child of a member of an Indian tribe;

M. "Indian child's tribe" means:

- (1) the Indian tribe in which an Indian child is a member or eligible for membership; or
- (2) in the case of an Indian child who is a member or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts;

N. "Indian tribe" means a federally recognized Indian tribe, community or group pursuant to 25 U.S.C. Section 1903(1);

O. "judge", when used without further qualification, means the judge of the court;

P. "legal custody" means a legal status created by order of the court or other court of competent jurisdiction or by operation of statute that vests in a person, department or agency the right to determine where and with whom a child shall live; the right and duty to protect, train and discipline the child and to provide the child with food, shelter, personal care, education and ordinary and emergency medical care; the right to consent to major medical, psychiatric, psychological and surgical treatment and to the administration of legally prescribed psychotropic medications pursuant to the Children's Mental Health and Developmental Disabilities Act; and the right to consent to the child's enlistment in the armed forces of the United States;

Q. "parent" or "parents" includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child;

R. "permanency plan" means a determination by the court that the child's interest will be served best by:

- (1) reunification;
- (2) placement for adoption after the parents' rights have been relinquished or terminated or after a motion has been filed to terminate parental rights;
- (3) placement with a person who will be the child's permanent guardian;

(4) placement in the legal custody of the department with the child placed in the home of a fit and willing relative; or

(5) placement in the legal custody of the department under a planned permanent living arrangement;

S. "person" means an individual or any other form of entity recognized by law;

T. "preadoptive parent" means a person with whom a child has been placed for adoption;

U. "protective supervision" means the right to visit the child in the home where the child is residing, inspect the home, transport the child to court-ordered diagnostic examinations and evaluations and obtain information and records concerning the child;

V. "relative" means a person related to another person by blood within the fifth degree of consanguinity or through marriage by the fifth degree of affinity;

W. "reunification" means either a return of the child to the parent or to the home from which the child was removed or a return to the noncustodial parent;

X. "tribal court" means:

(1) a court established and operated pursuant to a code or custom of an Indian tribe; or

(2) any administrative body of an Indian tribe that is vested with judicial authority;

Y. "tribal court order" means a document issued by a tribal court that is signed by an appropriate authority, including a judge, governor or tribal council member, and that orders an action that is within the tribal court's jurisdiction; and

Z. "tribunal" means any judicial forum other than the court."

## **Chapter 60 Section 2 Laws 2016**

SECTION 2. Section 32A-4-25 NMSA 1978 (being Laws 1993, Chapter 77, Section 119, as amended) is amended to read:

"32A-4-25. PERIODIC JUDICIAL REVIEW OF DISPOSITIONAL JUDGMENTS.--

A. The initial judicial review shall be held within sixty days of the disposition. At the initial judicial review, the parties shall demonstrate to the court efforts

made to implement the treatment plan approved by the court in its dispositional order. The court shall determine the extent to which the treatment plan has been implemented and make supplemental orders as necessary to ensure compliance with the treatment plan and the safety of the child. Prior to the initial judicial review, the department shall submit a copy of the adjudicatory order, the dispositional order and notice of the initial judicial review to the council. The staff of the council, or an entity contracting with the council, shall review the case. If the staff or contracting entity determines that the case meets the criteria established in council rules, the staff or contracting entity shall designate the case for review by a substitute care review board. A representative of the substitute care review board, if designated, shall be permitted to attend and comment to the court.

B. The court shall conduct subsequent periodic judicial reviews of the dispositional order within six months of the conclusion of the permanency hearing or, if a motion has been filed for termination of parental rights or permanent guardianship, within six months of the decision on that motion and every six months thereafter. Prior to a subsequent periodic judicial review, the department shall submit a progress report to the council or any designated substitute care review board. Prior to any judicial review by the court pursuant to this section, the substitute care review board may review the dispositional order or the continuation of the order and the department's progress report and report its findings and recommendations to the court.

C. Judicial review pursuant to this section may be carried out by either of the following:

(1) a judicial review hearing conducted by the court; or

(2) a judicial review hearing conducted by a special master appointed by the court; provided, however, that the court approve any findings made by the special master.

D. The children's court attorney shall give notice of the time, place and purpose of any judicial review hearing held pursuant to Subsection A, B or C of this section to:

(1) all parties, including:

(a) the child alleged to be neglected or abused or in need of court-ordered services, by and through the child's guardian ad litem or attorney;

(b) the child's parent, guardian or custodian, who has allegedly neglected or abused the child or is in need of court-ordered services; and

(c) any other person made a party by the court;

(2) the child's foster parent or substitute care provider;

(3) the child's court-appointed special advocate; and

(4) if designated by the council, the substitute care review board.

E. At any subsequent judicial review hearing held pursuant to Subsection B of this section, the department and all parties given notice pursuant to Subsection D of this section shall have the opportunity to present evidence and to cross-examine witnesses. At the hearing, the department shall show that it has made reasonable effort to implement any treatment plan approved by the court in its dispositional order and shall present a treatment plan consistent with the purposes of the Children's Code for any period of extension of the dispositional order. The respondent shall demonstrate to the court that efforts to comply with the treatment plan approved by the court in its dispositional order and efforts to maintain contact with the child were diligent and made in good faith. The court shall determine the extent of compliance with the treatment plan and whether progress is being made toward establishing a stable and permanent placement for the child.

F. The Rules of Evidence shall not apply to hearings held pursuant to this section. The court may admit testimony by any person given notice of the hearing who has information about the status of the child or the status of the treatment plan.

G. At the conclusion of any hearing held pursuant to this section, the court shall make findings of fact and conclusions of law.

H. When the child is an Indian child, the court shall determine during review of a dispositional order whether the placement preferences set forth in the federal Indian Child Welfare Act of 1978 or the placement preferences of the child's Indian tribe were followed and whether the child's treatment plan provides for maintaining the child's cultural ties. When placement preferences have not been followed, good cause for noncompliance shall be clearly stated and supported.

I. Based on its findings at a judicial review hearing held pursuant to Subsection B of this section, the court shall order one of the following dispositions:

(1) dismiss the action and return the child to the child's parent without supervision if the court finds that conditions in the home that led to abuse have been corrected and it is now safe for the return of the abused child;

(2) permit the child to remain with the child's parent, guardian or custodian subject to those conditions and limitations the court may prescribe, including protective supervision of the child by the department;

(3) return the child to the child's parent and place the child under the protective supervision of the department;

(4) transfer or continue legal custody of the child to:

(a) the noncustodial parent, if that is found to be in the child's best interests;

(b) a relative or other individual who, after study by the department or other agency designated by the court, is found by the court to be qualified to receive and care for the child and is appointed as a permanent guardian of the child; or

(c) the department, subject to the provisions of Paragraph (6) of this subsection;

(5) continue the child in the legal custody of the department with or without any required parental involvement in a treatment plan. Reasonable efforts shall be made to preserve and reunify the family, with the paramount concern being the child's health and safety unless the court finds that such efforts are not required. The court may determine that reasonable efforts are not required to be made when the court finds that:

(a) the efforts would be futile; or

(b) the parent, guardian or custodian has subjected the child to aggravated circumstances;

(6) make additional orders regarding the treatment plan or placement of the child to protect the child's best interests if the court determines the department has failed in implementing any material provision of the treatment plan or abused its discretion in the placement or proposed placement of the child; or

(7) if during a judicial review the court finds that the child's parent, guardian or custodian has not complied with the court-ordered treatment plan, the court may order:

(a) the child's parent, guardian or custodian to show cause why the parent, guardian or custodian should not be held in contempt of court; or

(b) a hearing on the merits of terminating parental rights.

J. Dispositional orders entered pursuant to this section shall remain in force for a period of six months, except for orders that provide for transfer of the child to the child's noncustodial parent or to a permanent guardian.

K. When the court determines, pursuant to Paragraph (5) of Subsection I of this section, that no reasonable efforts at reunification are required, the court shall conduct, within thirty days, a permanency hearing as described in Section 32A-4-25.1 NMSA 1978. The department shall make reasonable efforts to place the child in a timely

manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child."

## **Chapter 60 Section 3 Laws 2016**

SECTION 3. Section 32A-4-25.1 NMSA 1978 (being Laws 1997, Chapter 34, Section 8, as amended) is amended to read:

"32A-4-25.1. PERMANENCY HEARINGS--PERMANENCY REVIEW HEARINGS.--

A. A permanency hearing shall be commenced within six months of the initial judicial review of a child's dispositional order or within twelve months of a child entering foster care pursuant to Subsection D of this section, whichever occurs first. Prior to the initial permanency hearing:

(1) the department shall submit a copy of any continuation of the dispositional order and notice of hearing to the council or any substitute care review board designated pursuant to Section 32A-8-5 NMSA 1978;

(2) the department shall submit a progress report to any designated substitute care review board;

(3) all parties to the hearing shall attend a mandatory meeting and attempt to settle issues attendant to the permanency hearing and develop a proposed treatment plan that serves the child's best interest; and

(4) any designated substitute care review board may review the child's case and the department's progress report and report its findings and recommendations to the court.

B. At the permanency hearing, all parties shall have the opportunity to present evidence and to cross-examine witnesses. At the conclusion of the permanency hearing, the court shall order one of the following permanency plans for the child:

(1) reunification;

(2) placement for adoption after the parents' rights have been relinquished or terminated or after a motion has been filed to terminate parental rights;

(3) placement with a person who will be the child's permanent guardian;

(4) placement in the legal custody of the department with the child placed in the home of a fit and willing relative; or



(5) placement in the legal custody of the department under a planned permanent living arrangement, provided that there is substantial evidence that none of the above plans is appropriate for the child.

C. If the court adopts a permanency plan of reunification, the court shall adopt a plan for transitioning the child home and schedule a permanency review hearing within three months. If the child is reunified, the subsequent hearing may be vacated.

D. If the court adopts a permanency plan other than reunification, the court shall determine whether the department has made reasonable efforts to identify and locate all grandparents and other relatives. The court shall also determine whether the department has made reasonable efforts to conduct home studies on any appropriate relative expressing an interest in providing permanency for the child. The court must ensure that consideration has been given to the child's familial identity and connections. If the court finds that reasonable efforts have not been made to identify or locate grandparents and other relatives or to conduct home studies on appropriate and willing relatives, the court shall schedule a permanency review within sixty days to determine whether an appropriate relative placement has been made. If a relative placement is made, the subsequent hearing may be vacated.

E. At the permanency review hearing, all parties and the child's guardian ad litem or attorney shall have the opportunity to present evidence and cross-examine witnesses. Based on the evidence, the court shall:

(1) change the plan from reunification to one of the alternative plans provided in Subsection B of this section;

(2) dismiss the case and return custody of the child to the child's parent, guardian or custodian; or

(3) return the child to the custody of the child's parent, guardian or custodian, subject to any conditions or limitations as the court may prescribe, including protective supervision of the child by the department and continuation of the treatment plan for not more than six months, after which the case shall be dismissed. The department may seek removal of a child from the home by obtaining an order in the pending case or by seeking emergency removal under Section 32A-4-6 NMSA 1978 during the period of protective supervision if the child's best interest requires such action. When a child is removed in this situation, a permanency hearing shall be scheduled within thirty days of the child coming back into the department's legal custody.

F. The court shall hold a permanency hearing and adopt a permanency plan for a child within twelve months of the child entering foster care. For purposes of this section, a child shall be considered to have entered foster care on the earlier of:

(1) the date of the first judicial finding that the child has been abused or neglected; or

(2) sixty days after the date on which the child was removed from the home.

G. The court shall hold permanency hearings every twelve months when a child is in the legal custody of the department.

H. The children's court attorney shall give notice of the time, place and purpose of any permanency hearing or permanency review hearing held pursuant to this section to:

(1) all parties, including:

(a) the child alleged to be neglected or abused or in need of court-ordered services, by and through the child's guardian ad litem or attorney;

(b) the child's parent, guardian or custodian, who has allegedly neglected or abused the child or is in need of court-ordered services; and

(c) any other person made a party by the court;

(2) the child's foster parent or substitute care provider;

(3) the child's court-appointed special advocate; and

(4) if designated by the council, the substitute care review board.

I. The Rules of Evidence shall not apply to permanency hearings. The court may admit testimony by any person given notice of the permanency hearing who has information about the status of the child or the status of the treatment plan. All testimony shall be subject to

cross-examination."

## **Chapter 60 Section 4 Laws 2016**

SECTION 4. Section 32A-8-1 NMSA 1978 (being Laws 1993, Chapter 77, Section 203) is amended to read:

"32A-8-1. SHORT TITLE.--Chapter 32A, Article 8 NMSA 1978 may be cited as the "Citizen Substitute Care Review Act"."

## **Chapter 60 Section 5 Laws 2016**

SECTION 5. Section 32A-8-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 204) is amended to read:

"32A-8-2. PURPOSE OF ACT.--The purpose of the Citizen Substitute Care Review Act is to provide a permanent system for independent and objective monitoring of children placed in the custody of the department by examining the policies, procedures and practices of the department and, where appropriate, specific cases to evaluate the extent to which the department is effectively discharging its child protection responsibilities."

## **Chapter 60 Section 6 Laws 2016**

SECTION 6. Section 32A-8-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 206) is amended to read:

"32A-8-4. SUBSTITUTE CARE ADVISORY COUNCIL--MEMBERS--COMPENSATION--RESPONSIBILITIES--ADVISORY COMMITTEE.--

A. The "substitute care advisory council" is created and, in accordance with the provisions of Section 9-1-7 NMSA 1978, is administratively attached to the regulation and licensing department. The general purpose of the council is to oversee substitute care review boards in their monitoring of children placed in the custody of the children, youth and families department to identify systemic policy issues regarding substitute care. The council shall be composed of nine persons, including:

- (1) the secretary of public education or the secretary's designee;
- (2) the secretary of human services or the secretary's designee;
- (3) the secretary of finance and administration or the secretary's designee;
- (4) the secretary of health or the secretary's designee;
- (5) two public members, appointed by the governor, who:
  - (a) are at least eighteen and no more than thirty years of age at the time of appointment; and
  - (b) were previously placed in substitute care;
- (6) two public members, appointed by the governor, who have expertise in the area of child welfare; and
- (7) one children's court judge, appointed by the governor.

B. The council may hire staff and contract for services to carry out the purposes of the Citizen Substitute Care Review Act. Except as provided pursuant to Paragraph (7) of Subsection A of this section, a person or a relative of a person employed by the department or a district court shall not serve on the council.

C. Terms of office of public members of the council shall be three years. Public members shall be eligible for reappointment. In the event that a vacancy occurs among the members of the council, the governor shall appoint another person to serve the unexpired portion of the term.

D. The council shall select a chairperson, a vice chairperson and other officers as it deems necessary.

E. The council shall meet no less than twice annually and more frequently upon the call of the chairperson.

F. The council shall adopt reasonable rules relating to the functions and procedures of the substitute care review boards and the council in accordance with the duties of the boards as provided in the Citizen Substitute Care Review Act. These rules shall:

(1) establish training requirements for substitute care review board members;

(2) establish criteria for council designation of cases for substitute care review board review;

(3) establish procedures for substitute care review board review of designated cases;

(4) establish criteria for membership and tenure on and operating procedures for substitute care review boards;

(5) specify the information needed for designated cases to be monitored by substitute care review boards; and

(6) specify case information to be tracked and reported to the council.

G. When adopting rules establishing criteria for designation of cases for substitute care review board review, the council shall weigh the importance of the following factors, including:

(1) sibling placements;

(2) the frequency and severity of neglect or abuse;

(3) the behavioral health status of household members;

(4) the placement of children in households where there are no relatives of the children;

(5) data related to demographics; and

(6) relevant trend data.

H. The council shall review and coordinate the activities of the substitute care review boards and make a report with its recommendations to the department, the courts and the appropriate legislative interim committees, on or before November 1 of each year, regarding statutes, rules, policies and procedures relating to substitute care. This report shall include recommendations for any changes to substitute care review boards.

I. Council members shall receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act; provided that, if a different provision of that act applies to a specific member, that member shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.

J. The council shall appoint by October 1 of each year a six-member advisory committee from a list of substitute care review board members that the substitute care review boards shall nominate. The advisory council shall meet with the council at least once per year to advise the council on matters relating to substitute care review. Advisory committee members shall serve terms of one year and may be reappointed."

## **Chapter 60 Section 7 Laws 2016**

SECTION 7. Section 32A-8-5 NMSA 1978 (being Laws 1993, Chapter 77, Section 207) is amended to read:

"32A-8-5. SUBSTITUTE CARE REVIEW BOARDS--APPOINTMENTS--EXCLUSION--TERMS--TRAINING--COMPENSATION--MEETINGS.--

A. The council shall establish no fewer than three substitute care review boards and, in each judicial district established pursuant to Section 34-6-1 NMSA 1978, no more than the following number of substitute care review boards:

(1) two substitute care review boards in the first judicial district;

(2) three substitute care review boards in the second judicial district;

(3) one substitute care review board in the third judicial district;

(4) two substitute care review boards in the fourth judicial district;

(5) two substitute care review boards in the fifth judicial district;

(6) two substitute care review boards in the sixth judicial district;

(7) two substitute care review boards in the seventh judicial district;

(8) two substitute care review boards in the eighth judicial district;

(9) one substitute care review board in the ninth judicial district;

(10) one substitute care review board in the tenth judicial district;

(11) two substitute care review boards in the eleventh judicial district;

and

(12) two substitute care review boards in the twelfth judicial district;

and

(13) two substitute care review boards in the thirteenth judicial district.

B. The council, or a contractor performing services for the council pursuant to Subsection B of Section 32A-8-4 NMSA 1978, shall provide administrative support to substitute care review boards in accordance with the Citizen Substitute Care Review Act and rules that the council has adopted.

C. A person or a relative of a person employed by the department of finance and administration, the children, youth and families department, the human services department, the public education department, the department of health, a contractor of the council or a district court shall not serve on a substitute care review board.

D. The composition of each substitute care review board shall be broadly representative of the community in which the board serves and include members with expertise in the prevention and treatment of child abuse and neglect and may include adult former victims of child abuse or neglect.

E. Each substitute care review board shall meet at least once per quarter to review cases designated in accordance with council rules.

F. Substitute care review board members may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act;

provided that, if a different provision of that act applies to a specific member, that member shall be paid pursuant to that applicable provision. Members shall receive no other compensation, perquisite or allowance.

G. Upon request of the council, a substitute care review board shall prepare a report summarizing its activities. These reports shall not contain confidential information."

## **Chapter 60 Section 8 Laws 2016**

SECTION 8. Section 32A-8-6 NMSA 1978 (being Laws 1993, Chapter 77, Section 208) is amended to read:

"32A-8-6. SUBSTITUTE CARE REVIEW BOARD REVIEWS OF CASES.--When council rules designate the review of a case, a substitute care review board shall conduct the review in accordance with the provisions of the Children's Code and the Abuse and Neglect Act and council rules. The designated substitute care review board shall submit a report to the court for each case that it reviews. The substitute care review board shall give the parties in a children's court case under substitute care review board review notice of a substitute care review board meeting related to that case and afford the parties an opportunity to participate fully in the substitute care review board meeting."

## **Chapter 60 Section 9 Laws 2016**

SECTION 9. Section 32A-8-7 NMSA 1978 (being Laws 1993, Chapter 77, Section 209) is amended to read:

"32A-8-7. TRANSFER PROVISIONS--FUNDS--CONTRACTS--REFERENCES IN LAW.--On the effective date of this 2016 act:

A. all functions, records, personnel, appropriations, money, furniture, property, equipment and supplies of the department of finance and administration relating to the Citizen Substitute Care Review Act shall be transferred to the council;

B. all appropriations, contract funds and funds for contract administration and staff, the cost of council per diem and travel, training and all other costs relating to the Citizen Substitute Care Review Act shall be transferred from the department of finance and administration to the council;

C. all existing rules and regulations, contracts and agreements of the department of finance and administration relating to the statewide system of substitute care review boards shall be binding and effective on the council; and

D. all references in law to the state advisory committee shall be deemed to be references to the council."

## **Chapter 60 Section 10 Laws 2016**

SECTION 10. REPEAL.--Section 32A-8-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 205) is repealed.

## **Chapter 60 Section 11 Laws 2016**

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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SJC/SPAC/Senate Bill 49, aa

Approved March 7, 2016

## **LAWS 2016, CHAPTER 61**

AN ACT

RELATING TO FAMILIES; REPEALING THE APPLICABILITY SECTION AND THE CONTINGENT EFFECTIVE DATE SECTION OF THE UNIFORM INTERSTATE FAMILY SUPPORT ACT ESTABLISHED IN LAWS 2011 IN ORDER TO ESTABLISH A NEW EFFECTIVE DATE.

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

## **Chapter 61 Section 1 Laws 2016**

SECTION 1. REPEAL.--Laws 2011, Chapter 159, Sections 69 and 70 are repealed.

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Senate Bill 68

Approved March 7, 2016

## **LAWS 2016, CHAPTER 62**

AN ACT

RELATING TO PUBLIC SCHOOLS; CREATING THE K-5 PLUS PILOT PROJECT TO PROVIDE EXTENDED INSTRUCTIONAL TIME FOR STUDENTS IN KINDERGARTEN THROUGH FIFTH GRADE IN CERTAIN PUBLIC SCHOOLS; PROVIDING AN



APPLICATION PROCESS; REQUIRING REPORTING; DECLARING AN EMERGENCY.

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

## **Chapter 62 Section 1 Laws 2016**

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

"K-5 PLUS PILOT PROJECT--PURPOSE--ELIGIBILITY--APPLICATION--REPORTING AND EVALUATION.--

A. "K-5 plus" is created as a four-year pilot project that:

(1) extends the school year in participating public schools by at least twenty-five additional days for students in kindergarten through fifth grade; and

(2) measures the effect of the provided additional time on literacy and numeracy.

B. The purpose of K-5 plus is to demonstrate that increased time in kindergarten through fifth grade:

(1) narrows the achievement gap between certain disadvantaged students and other students;

(2) better prepares elementary students for success in middle and high school;

(3) improves truancy rates at all school levels and improves dropout rates in high school; and

(4) increases students' cognitive skills and leads to higher test scores for participants.

C. K-5 plus shall be administered by the department and shall provide funding to successful public school applicants that extend their school calendars for kindergarten through fifth grade by at least twenty-five instructional days prior to the beginning of the regular school year.

D. K-5 plus shall be conducted upon application in public schools at which either eighty percent or more of the students are eligible for free or reduced-fee lunch or the school has a D or F school grade at the time the public school initially applies for the pilot project. Public schools that conduct K-3 plus programs may apply to participate in the K-5 plus pilot project, and the department shall give priority to those public schools

that have a current K-3 plus program. The pilot project shall be conducted in no more than twenty public schools.

E. The department shall determine application requirements and procedures and criteria for evaluating applications. In evaluating applications for K-5 plus, the department shall grant priority to those public schools with research-based, scientific reading strategies and programs. An applicant shall demonstrate that its K-5 plus pilot project will meet all department standards and employ only qualified teachers and other staff.

F. K-5 plus shall be funded at no less than thirty percent of the final unit value per student established as of January 31 of the current calendar year. Up to two percent of the money received by a school district or charter school shall be used to ensure regular attendance by K-5 plus students. Funding for individual public schools shall be based on enrollment on the fifteenth day of the project.

G. School districts and charter schools that meet the qualifications for K-5 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. The notification shall include the application and any requirements for supplementary documentation. Applications may be submitted electronically or by mail or other delivery. Public schools that are awarded funding for K-5 plus for the next school year shall be notified by April 15 of the calendar year.

H. The department shall provide additional professional development for K-5 plus teachers in how children learn to read. The department may use up to four percent of any appropriation made by the legislature for the K-5 plus pilot project for professional development for participating educators and department administrative costs.

I. Teachers and educational assistants shall be paid at the same rate and under the same terms as teachers and educational assistants are paid for regular educational programs.

J. Students participating in K-5 plus shall be evaluated at the beginning of each grade year, and their progress shall be measured through department-approved summative assessments.

K. The department shall establish and implement reporting and evaluation requirements for participating public schools, including students and pilot project assessments. The department shall provide interim and final reports annually to the legislature and the governor on the efficacy of K-5 plus.

L. In addition to legislative appropriations for the K-5 plus pilot project, the department, school districts, public schools and local communities shall seek public and private gifts, grants and donations to benefit the pilot project."

## **Chapter 62 Section 2 Laws 2016**

SECTION 2. TEMPORARY PROVISIONS--RULES AND DEADLINES FOR FIRST-YEAR K-5 PLUS FUNDING.--The rules promulgated by the public education department for the K-3 plus program shall apply to the K-5 plus pilot project until new rules can be adopted. The provisions of Subsection G of Section 1 of this act notwithstanding, the department may extend the deadline date for applications, but such extension shall not interfere with the April 15 date of notice of awards. The department shall notify all school districts and charter schools immediately when this act has become law and provide the school districts and charter schools with the appropriate deadline dates for the first year. The legislature encourages the public education department to notify school districts and charter schools of a tentative schedule prior to this act being signed into law.

## **Chapter 62 Section 3 Laws 2016**

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 81, aa, w/ec

Approved March 7, 2016

# **LAWS 2016, CHAPTER 63**

AN ACT

RELATING TO COMMERCIAL DRIVER'S LICENSES; PROHIBITING THE USE OF A HANDHELD MOBILE COMMUNICATION DEVICE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE; DEFINING TEXTING WHILE DRIVING AND USE OF A HANDHELD MOBILE COMMUNICATION DEVICE AS SERIOUS TRAFFIC VIOLATIONS; DISQUALIFYING A PERSON FROM DRIVING A COMMERCIAL MOTOR VEHICLE FOR LIFE IF CONVICTED OF USING ANY MOTOR VEHICLE IN THE COMMISSION OF CERTAIN FELONIES; ADDING A PENALTY ASSESSMENT MISDEMEANOR.

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

## **Chapter 63 Section 1 Laws 2016**

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

"USE OF A HANDHELD MOBILE COMMUNICATION DEVICE WHILE DRIVING A COMMERCIAL MOTOR VEHICLE.--

A. A person shall not use a handheld mobile communication device for any purpose while driving a commercial motor vehicle except to summon medical or other emergency help or unless that device is an amateur radio and the driver holds a valid amateur radio operator license issued by the federal communications commission. This prohibition is a separate prohibition from the prohibition on texting while driving pursuant to Section 66-7-374 NMSA 1978.

B. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a handheld mobile communication device. Unless otherwise provided by law, the handheld mobile communication device used in the violation of the provisions of this section is not subject to search by a law enforcement officer during a traffic stop made pursuant to the provisions of this section.

C. As used in this section:

(1) "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(a) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(b) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(c) is designed to transport sixteen or more passengers, including the driver; or

(d) is of any size and is used in the transportation of hazardous materials as provided in 49 CFR Part 383.5;

(2) "driving" means being in actual physical control of a commercial motor vehicle on a highway or street and includes being temporarily stopped because of traffic, a traffic light or stop sign or otherwise; but "driving" excludes a commercial motor vehicle when the vehicle has pulled over to the side of or off of an active roadway and has stopped at a location in which it can safely remain stationary;

(3) "handheld mobile communication device" means a wireless communication device that is designed to receive and transmit text, voice or image messages; provided, however, that "handheld mobile communication device" excludes

global positioning or navigation systems; citizen band radios with a handheld microphone operated by a single button or lever; devices that are physically or electronically integrated into a commercial motor vehicle; and voice-operated or hands-free devices that allow the user to compose, send or read a text message or talk without the use of a hand, except to activate, deactivate or initiate a feature or function; and

(4) "text message" means a digital communication transmitted or intended to be transmitted between communication devices and includes electronic mail, an instant message, a text or image communication and a command or request to an internet site; but "text message" excludes communications through the use of a computer-aided dispatch service by law enforcement or rescue personnel."

## **Chapter 63 Section 2 Laws 2016**

SECTION 2. Section 66-5-54 NMSA 1978 (being Laws 1989, Chapter 14, Section 3, as amended) is amended to read:

"66-5-54. DEFINITIONS.--As used in the New Mexico Commercial Driver's License Act:

A. "commerce" means:

(1) trade, traffic or transportation within the jurisdiction of the United States between a place in New Mexico and a place outside of New Mexico, including a place outside of the United States; and

(2) trade, traffic or transportation in the United States that affects any trade, traffic or transportation described in Paragraph (1) of this subsection;

B. "commercial driver's license holder" means an individual to whom a license has been issued by a state or other jurisdiction, in accordance with the standards found in 49 CFR Part 383, as amended or renumbered, that authorizes the individual to operate a commercial motor vehicle;

C. "commercial driver's license information system" means the information system created pursuant to the federal Commercial Motor Vehicle Safety Act of 1986 that contains information pertaining to operators of commercial motor vehicles;

D. "commercial motor vehicle" means a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

(1) has a gross combination weight rating of more than twenty-six thousand pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand pounds;

(2) has a gross vehicle weight rating of more than twenty-six thousand pounds;

(3) is designed to transport sixteen or more passengers, including the driver; or

(4) is of any size and is used in the transportation of hazardous materials, as provided in 49 CFR Part 383.5;

E. "conviction" means:

(1) an unvacated adjudication of guilt or a determination that a person has violated or failed to comply with the law by:

(a) a court of original jurisdiction; or

(b) an authorized administrative tribunal;

(2) an unvacated forfeiture of bail or collateral deposited to secure a person's appearance in court;

(3) a plea of guilty or nolo contendere accepted by the court;

(4) the payment of a fine or court cost;

(5) a violation of a condition of release without bail, regardless of whether the payment is rebated, suspended or probated;

(6) an assignment to a diversion program or a driver improvement school; or

(7) a conditional discharge as provided in Section 31-20-13 NMSA 1978;

F. "director" means the director of the motor vehicle division of the department;

G. "disqualification" means:

(1) a suspension, revocation or cancellation of a commercial driver's license by the state or jurisdiction that issued the commercial driver's license;

(2) a withdrawal of a person's privileges to drive a commercial motor vehicle by a state or other jurisdiction as the result of a violation of state or local law relating to motor vehicle control other than a parking, vehicle weight or vehicle defect violation; and

(3) a determination by the federal motor carrier safety administration that a person is not qualified to operate a motor vehicle;

H. "division" means the motor vehicle division of the department;

I. "driving a commercial motor vehicle while under the influence of alcohol" means:

(1) driving a commercial motor vehicle while the driver has an alcohol concentration in the driver's blood or breath of four one hundredths or more;

(2) driving a commercial motor vehicle while the driver is under the influence of intoxicating liquor; or

(3) refusal to submit to chemical tests administered pursuant to Section 66-8-107 NMSA 1978;

J. "employee" means an operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent or occasional drivers; leased drivers; and independent owner-operator contractors, while in the course of operating a commercial motor vehicle, who is either directly employed by or under lease to an employer;

K. "employer" means a person, including the United States, a state and a political subdivision of a state or their agencies or instrumentalities, that owns or leases a commercial motor vehicle or assigns employees to operate such a vehicle;

L. "fatality" means the death of a person as a result of a motor vehicle accident;

M. "gross combination weight rating" means the value specified by the manufacturer as the loaded weight of a combination vehicle. In the absence of a value specified by the manufacturer, gross combination weight rating shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit or units and any load thereon;

N. "gross vehicle weight rating" means the value specified by the manufacturer as the loaded weight of a single vehicle;

O. "imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury or a substantial endangerment to health, property or the environment will occur before the reasonable foreseeable completion date of a formal proceeding to lessen the risk of that death, illness, injury or endangerment;

P. "noncommercial motor vehicle" means a motor vehicle or combination of motor vehicles that is not a commercial motor vehicle;

Q. "nonresident commercial driver's license" means a commercial driver's license issued by another state to a person domiciled in that state or by a foreign country to a person domiciled in that country;

R. "out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican or local jurisdiction that a driver, a commercial motor vehicle or a motor carrier operation is temporarily prohibited from operating;

S. "railroad-highway grade crossing violation" means a violation of a provision of Section 66-7-341 or 66-7-343 NMSA 1978 or a violation of federal or local law, ordinance or rule pertaining to stopping at or crossing a railroad-highway grade crossing;

T. "serious traffic violation" means conviction of any of the following if committed when operating a motor vehicle:

(1) speed of fifteen miles or more per hour above the posted limits;

(2) reckless driving as defined by Section 66-8-113 NMSA 1978 or a municipal ordinance or the law of another state;

(3) homicide by vehicle, as defined in Section 66-8-101 NMSA 1978;

(4) injury to pregnant women by vehicle as defined in Section 66-8-101.1 NMSA 1978 or a municipal ordinance or the law of another state;

(5) any other violation of law relating to motor vehicle traffic control, other than a parking violation, that the secretary determines by regulation to be a serious traffic violation. "Serious traffic violation" does not include a vehicle weight or vehicle defect violation;

(6) improper or erratic lane changes in violation of Section 66-7-317 NMSA 1978;

(7) following another vehicle too closely in violation of Section 66-7-318 NMSA 1978;

(8) texting while driving in violation of Section 66-7-374 NMSA 1978 or a municipal ordinance;



(9) use of a handheld mobile communication device while driving a commercial motor vehicle in violation of Section 1 of this 2016 act or a municipal ordinance;

(10) directly or indirectly causing death or great bodily injury to a human being in the unlawful operation of a motor vehicle in violation of Section 66-8-101 NMSA 1978;

(11) driving a commercial motor vehicle without possession of a commercial driver's license in violation of Section 66-5-59 NMSA 1978;

(12) driving a commercial motor vehicle without the proper class of commercial driver's license and endorsements pursuant to Section 66-5-65 NMSA 1978 and the Motor Carrier Safety Act for the specific vehicle group operated or for the passengers or type of cargo transported; or

(13) driving a commercial motor vehicle without obtaining a commercial driver's license in violation of Section 66-5-59 NMSA 1978; and

U. "state of domicile" means the state in which a person has a true, fixed and permanent home and principal residence and to which the person has the intention of returning whenever the person has been absent from that state."

## **Chapter 63 Section 3 Laws 2016**

SECTION 3. Section 66-5-68 NMSA 1978 (being Laws 1989, Chapter 14, Section 17, as amended) is amended to read:

"66-5-68. DISQUALIFICATION.--

A. The department shall disqualify a person from driving a commercial motor vehicle for at least thirty days if the federal motor carrier safety administration reports to the division that the person poses an imminent hazard.

B. The department shall disqualify a person who holds a commercial driver's license or who is required to hold a commercial driver's license from driving a commercial motor vehicle for a period of not less than one year, which shall run concurrently with any revocation or suspension action for the same offense, if the person:

(1) refuses to submit to a chemical test when requested pursuant to the provisions of the Implied Consent Act;

(2) is twenty-one years of age or more and submits to chemical testing pursuant to the Implied Consent Act and the test results indicate an alcohol concentration of eight one hundredths or more;

(3) submits to chemical testing pursuant to the Implied Consent Act and the test results indicate an alcohol concentration of four one hundredths or more if the person is driving a commercial motor vehicle;

(4) is less than twenty-one years of age and submits to chemical testing pursuant to the Implied Consent Act and the test results indicate an alcohol concentration of two one hundredths or more; or

(5) is convicted of a violation of:

(a) driving a motor vehicle while under the influence of intoxicating liquor or drugs in violation of Section 66-8-102 NMSA 1978, an ordinance of a municipality of this state or the law of another state;

(b) leaving the scene of an accident involving a commercial motor vehicle driven by the person in violation of Section 66-7-201 NMSA 1978 or an ordinance of a municipality of this state or the law of another state;

(c) using a motor vehicle in the commission of a felony;

(d) driving a commercial motor vehicle after the driver's commercial driver's license is revoked, suspended, disqualified or canceled for violations while operating a commercial motor vehicle; or

(e) causing a fatality in the unlawful operation of a motor vehicle pursuant to Section 66-8-101 NMSA 1978.

C. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than three years if any of the violations specified in Subsection B of this section occur while transporting a hazardous material required to be placarded.

D. The department shall disqualify a person from driving a commercial motor vehicle for life if convicted of two or more violations of any of the offenses specified in Subsection B of this section, or any combination of those offenses, arising from two or more separate incidents, but the secretary may issue rules establishing guidelines, including conditions, under which a disqualification for life under this subsection may be reduced to a period of not less than ten years. This subsection applies only to those offenses committed after July 1, 1989.

E. The department shall disqualify a person from driving a commercial motor vehicle for life if the person is convicted of using a motor vehicle in the commission of any felony involving the manufacture, distribution or dispensing of a controlled substance.

F. The department shall disqualify a person from driving a commercial motor vehicle for a period of not less than sixty days if convicted of two serious traffic violations or one hundred twenty days if convicted of three serious traffic violations, if the violations were committed while driving a commercial motor vehicle, arising from separate incidents occurring within a three-year period.

G. The department shall disqualify a person from driving a commercial motor vehicle for a period of:

(1) not less than one hundred eighty days nor more than two years if the person is convicted of a first violation of an out-of-service order while transporting hazardous materials required to be placarded pursuant to the federal Hazardous Materials Transportation Act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver;

(2) not more than one year if the person is convicted of a first violation of an out-of-service order; or

(3) not less than three years nor more than five years if, during any ten-year period, the person is convicted of any subsequent violations of out-of-service orders, in separate incidents, while transporting hazardous materials required to be placarded pursuant to that act or while operating a motor vehicle designed to transport more than fifteen passengers, including the driver.

H. The department shall disqualify a person from driving a commercial motor vehicle for sixty days if:

(1) the person has been convicted of two serious traffic violations in separate incidents within a three-year period; and

(2) the second conviction results in revocation, cancellation or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges for sixty days.

I. The department shall disqualify a person from driving a commercial motor vehicle for one hundred twenty days, in addition to any other period of disqualification, if:

(1) the person has been convicted of more than two serious traffic violations within a three-year period; and

(2) the third or a subsequent conviction results in the revocation, cancellation or suspension of the person's commercial driver's license or noncommercial motor vehicle driving privileges.

J. When a person is disqualified from driving a commercial motor vehicle, any commercial driver's license held by that person is invalidated without a separate proceeding of any kind and the driver is not eligible to apply for a commercial driver's license until the period of time for which the driver was disqualified has elapsed.

K. The department shall disqualify a person from driving a commercial motor vehicle for not less than:

(1) sixty days if the person is convicted of a first violation of a railroad-highway grade crossing violation;

(2) one hundred twenty days if, during any three-year period, the person is convicted of a second railroad-highway grade crossing violation in a separate incident; and

(3) one year if, during any three-year period, the person is convicted of a third or subsequent railroad-highway grade crossing violation in a separate incident.

L. After disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall, within ten days, update its records to reflect that action. After disqualifying, suspending, revoking or canceling a nonresident commercial driver's privileges, the department shall, within ten days, notify the licensing authority of the state that issued the commercial driver's license.

M. When disqualifying, suspending, revoking or canceling a commercial driver's license, the department shall treat a conviction received in another state in the same manner as if it was received in this state.

N. The department shall post and enforce any disqualification sent by the federal motor carrier safety administration to the department that indicates that a commercial motor vehicle driver poses an imminent hazard.

O. The federal transportation security administration of the department of homeland security shall provide for an appeal of a disqualification for a commercial driver's license hazardous materials endorsement on the basis of a background check, and the department shall provide to a hazardous materials applicant a copy of the procedures established by the transportation security administration, on request, at the time of application.

P. New Mexico shall conform to the federal transportation security administration of the department of homeland security rules and shall "look back" or review a maximum of seven years for a background check."

## **Chapter 63 Section 4 Laws 2016**

SECTION 4. 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 ASSESSMENT
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Improper display of

66-3-18	\$ 25.00
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Failure to notify of

66-3-23	25.00
---------	-------

Lost or damaged registration,

66-3-24	20.00
---------	-------

Permitting unauthorized

66-5-40	50.00
---------	-------

Permitting unauthorized

66-5-41	25.00
---------	-------

66-7-104	10.00
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66-7-105	10.00
----------	-------

66-7-301	
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(1) up to and including

ten miles an hour

over the speed limit	15.00
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(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

66-7-372 25.00

Child not in restraint device

66-7-369 25.00

66-7-305 10.00

66-7-306 15.00

66-7-324 10.00

66-7-354 10.00

66-7-308 10.00

66-7-313 10.00

66-7-316 10.00

66-7-317 10.00

66-7-319 10.00

sing 66-7-309 through 66-7-312 10.00

66-7-315 10.00

Controlled access

66-7-320 10.00

Controlled access

66-7-321 10.00

66-7-322 10.00

66-7-323 10.00

66-7-325 10.00

66-7-318 10.00

66-7-328 through 66-7-331 10.00

66-7-332 50.00

66-7-332.1 25.00

66-7-333 10.00

66-7-340 10.00

66-7-342 and 66-7-344

through 66-7-346 10.00

Railroad-highway grade

66-7-341 and 66-7-343 150.00

66-7-347 100.00

66-7-325 through 66-7-327 10.00

66-7-407 100.00

Operation without oversize-

66-7-413 50.00

Transport of reducible

load with special

permit more than six miles

66-7-413 100.00

66-3-801

through 66-3-851 25.00

66-3-901 20.00

Improper emergency

66-3-853 through 66-3-857 10.00

Minor on motorcycle



66-7-356 300.00  
66-7-357 50.00  
66-7-364 300.00  
66-7-349 through 66-7-352  
and 66-7-3535.00

66-3-852 5.00  
66-3-831 10.00

Riding in or towing

66-7-366 5.00  
66-7-367 5.00

No slow-moving vehicle  
emblem or flashing

66-3-887 5.00

Open container - first

66-8-138 25.00

Texting while driving -

66-7-374 25.00

Texting while driving -

66-7-374 50.00

Using a handheld mobile  
communication device

while driving a

Section 1 of this

vehicle            2016 act            25.00

Using a handheld mobile

communication device

while driving a

commercial motor

Section 1 of this

2016 act            50.00.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

D. The penalty assessment for speeding in violation of Paragraph (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)."

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Senate Bill 171

Approved March 7, 2016

# **LAWS 2016, CHAPTER 64**

## **AN ACT**

RELATING TO EMERGENCY PLACEMENT OF CHILDREN; REQUIRING IMMEDIATE REMOVAL OF CHILDREN FROM EMERGENCY PLACEMENT HOMES UNDER CERTAIN CIRCUMSTANCES; ALLOWING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO PERFORM CRIMINAL HISTORY RECORD CHECKS; DECLARING AN EMERGENCY.

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

### **Chapter 64 Section 1 Laws 2016**

SECTION 1. Section 32A-3A-11 NMSA 1978 (being Laws 2013, Chapter 50, Section 1) is amended to read:

"32A-3A-11. 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 or a criminal justice agency shall 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 shall 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. The resident shall be entitled to review the information obtained from the resident's criminal history record check if that check was performed using the resident's fingerprints submitted pursuant to this subsection.

C. The department may charge the federal fee for processing a fingerprint-based criminal history record check pursuant to this section. The department of public

safety shall not charge a state fee for processing a fingerprint-based criminal history record check pursuant to this section.

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 64 Section 2 Laws 2016**

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 176, aa, w/ec

Approved March 7, 2016

## **LAWS 2016, CHAPTER 65**

AN ACT

RELATING TO FOREST CONSERVATION; AMENDING A SECTION OF CHAPTER 68, ARTICLE 2 NMSA 1978 TO PROVIDE FOR FEDERAL REVENUE AND EXPENDITURES FROM THE FOREST LAND PROTECTION REVOLVING FUND FOR FOREST AND WATERSHED MANAGEMENT PROJECTS.

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

## **Chapter 65 Section 1 Laws 2016**

SECTION 1. Section 68-2-28 NMSA 1978 (being Laws 1987, Chapter 143, Section 6, as amended) is amended to read:

"68-2-28. FOREST LAND PROTECTION REVOLVING FUND CREATED.--There is created in the state treasury a revolving fund to be known as the "forest land protection revolving fund". The forest land protection revolving fund shall consist of all receipts as provided by Section 68-2-26 NMSA 1978 and from revenue received by the forestry division of the energy, minerals and natural resources department from the federal government or other state agencies and other sources for conducting forest and watershed management projects. Subject to legislative appropriation, expenditures may be made from the forest land protection revolving fund upon vouchers signed by the state forester and warrants issued by the secretary of finance and administration for the administration and enforcement of the Forest Conservation Act and to administer forest

and watershed management projects, including acquisition of tools and equipment and expenses incurred by the forestry division in planning and supervising forest and watershed management projects. Money in the forest land protection revolving fund shall not revert to the general fund."

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Senate Bill 110, aa

Approved March 8, 2016

## **LAWS 2016, CHAPTER 66**

AN ACT

RELATING TO TIMBER; ENACTING THE INTERSTATE COMPACT FOR THE PREVENTION AND CONTROL OF FOREST FIRES; DECLARING AN EMERGENCY.

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

### **Chapter 66 Section 1 Laws 2016**

SECTION 1. INTERSTATE COMPACT FOR THE PREVENTION AND CONTROL OF FOREST FIRES.--The Interstate Compact for the Prevention and Control of Forest Fires is enacted into law, and New Mexico hereby enters into the compact as a member state with all other jurisdictions legally joining therein in the form substantially as follows:

INTERSTATE COMPACT FOR THE PREVENTION AND CONTROL OF FOREST FIRES

#### ARTICLE I

##### Purpose

The purpose of this compact is to promote effective prevention and control of forest fires in the great plains region of the United States by the maintenance of adequate forest firefighting services by the member states, and providing for reciprocal aid in fighting forest fires among the compacting states of the region, including South Dakota, North Dakota, Wyoming, Colorado and any adjoining state of a current member state.

#### ARTICLE II

##### Operative Date

This compact is operative immediately as to those states ratifying it if any two or more of the member states have ratified it.

### ARTICLE III

#### State Compact Administrator; Forest Fire Plan

(a) In each state, the state forester or officer holding the equivalent position who is responsible for forest fire control may act as compact administrator for that state, consult with like officials of the other member states and implement cooperation between the states in forest fire prevention and control. The compact administrators of the member states may organize to coordinate the services of the member states and provide administrative integration in carrying out the purposes of this compact.

(b) Each member state may formulate and put in effect a forest fire plan for that state.

### ARTICLE IV

#### Aid to Other Member States

If the state forest fire control agency of a member state requests aid from the state forest fire control agency of another state in combating, controlling or preventing forest fires, the state forest fire control agency of that state may render all possible aid to the requesting agency, consonant with the maintenance of protection at home.

### ARTICLE V

#### Claims and Reimbursement

(a) Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving the aid for any loss or damage to, or expense incurred in the operation of, any equipment used in answering a request for aid, and for the cost of all materials, transportation, wages, salaries and maintenance of employees and equipment incurred in connection with the request. However, nothing in this compact prevents any assisting member state from assuming the loss, damage, expense or other cost, from loaning the equipment or from donating the services to the receiving member state without charge or cost.

(b) Each member state shall assure that workers compensation benefits in conformity with the minimum legal requirements of the state are available to all employees and contract firefighters sent to a requesting state pursuant to this compact.

(c) For the purposes of this compact, the term "employee" includes any volunteer or auxiliary legally included within the forest firefighting forces of the aiding state under the laws of the aiding state.

(d) The compact administrators may formulate procedures for claims and reimbursement under the provisions of this article in accordance with the laws of the member state.

## ARTICLE VI

### Effect of Compact on Existing Statutes; Duties

(a) Ratification of this compact does not affect any existing statute so as to authorize or permit curtailment or diminution of the forest firefighting forces, equipment, services or facilities of any member state.

(b) Nothing in this compact authorizes or permits any member state to curtail or diminish its firefighting forces, equipment, services or facilities. Each member state shall maintain adequate forest firefighting forces and equipment to meet the demands for forest fire protection within its borders in the same manner and to the same extent as if the compact were not operative.

(c) Nothing in this compact limits or restricts the powers of any state ratifying the compact to provide for the prevention, control and extinguishment of forest fires, or to prohibit the enactment or enforcement of state laws, rules or regulations intended to aid in the prevention, control and extinguishment of forest fires in the state.

(d) Nothing in this compact affects any existing or future cooperative relationship or arrangement between the United States forest service and a member state or states.

## ARTICLE VII

### Representatives of the United States Forest Service

Representatives of the United States forest service may attend meetings of the compact administrators.

## ARTICLE VIII

### Operation of Articles IV and V

The provisions of Articles IV and V of this compact that relate to reciprocal aid in combating, controlling or preventing forest fires are operative as between any state party to this compact and any other state which is party to this compact in another

region if the legislature of the other state has given its assent to the mutual aid provisions of this compact.

## ARTICLE IX

### Withdrawal from Compact

This compact shall continue in force and remain binding on each state ratifying it until the legislature or the governor of the state takes action to withdraw from the compact. Such action is not effective until six months after notice of the withdrawal has been sent by the chief executive of the state desiring to withdraw to the chief executive of all states then party to the compact.

## **Chapter 66 Section 2 Laws 2016**

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 128, w/ec

Approved March 8, 2016

## **LAWS 2016, CHAPTER 67**

### AN ACT

RELATING TO PROPERTY; PROVIDING FOR SCRIVENER'S-ERROR AFFIDAVITS TO CORRECT ERRORS IN INSTRUMENTS AFFECTING REAL PROPERTY.

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

## **Chapter 67 Section 1 Laws 2016**

SECTION 1. A new section of Chapter 47, Article 1 NMSA 1978 is enacted to read:

"USE OF SCRIVENER'S-ERROR AFFIDAVITS.--

A. As used in this section, "scrivener's-error affidavit" means an affidavit to correct a drafting or clerical error in:

(1) a legal description, such as the omission of one or more words;



- (2) the name of a subdivision;
- (3) the recording information for a plat;
- (4) a metes and bounds description, if bearings or distances are omitted and as long as the correction does not add or remove land to the land being described;
- (5) the spelling of a name;
- (6) a middle initial, if incorrect or missing;
- (7) a grantee's address, if omitted in a deed; or
- (8) the legal type or state of domicile of a corporation or other legal entity.

B. A scrivener's-error affidavit shall be executed by only the following:

(1) for an error on a deed or other legal document prepared in conjunction with the closing of a transaction affecting the title to real property:

(a) the licensed attorney who prepared the original instrument; or

(b) the employee of the title insurer or title insurance agent who completed the form of the original instrument, if still employed by that insurer or agent and if licensed under the New Mexico Title Insurance Law;

(2) for an error on a mortgage or deed of trust:

(a) a licensed attorney who represents the mortgagee or beneficiary named in the form of the original instrument; or

(b) a current employee of the mortgagee or beneficiary named in the form of the original instrument;

(3) for an error on a power of attorney or an easement:

(a) a licensed attorney who represents the principal or grantor of the original instrument; or

(b) the principal or grantor of the original instrument; and

(4) for an error on any other writing affecting title to real estate:

(a) a licensed attorney who represents a party to the original instrument; or

(b) the licensed attorney who prepared the original instrument.

C. A scrivener's-error affidavit shall:

(1) state that the affiant has actual knowledge of and is competent to testify to the facts in the affidavit and contain an acknowledgment that the affiant is testifying under the penalty of perjury;

(2) be sworn to and acknowledged by the affiant before a person authorized to administer an oath under New Mexico law;

(3) conspicuously identify in its title that it is a "scrivener's affidavit" or "scrivener's-error affidavit"; and

(4) contain the following information concerning the original instrument being corrected:

(a) the name of the person who or entity that prepared, completed or was associated with the original instrument;

(b) the names and capacities of all parties to the original instrument;

(c) the recording information, including the recording date and document, instrument or reception number, if available, of the original instrument;

(d) a brief description of each error in the original instrument that the affidavit is designed to correct; and

(e) the correct information to be inserted or reflected in or the information to be removed from the original instrument.

D. A scrivener's-error affidavit that substantially complies with this section as to form and execution shall be:

(1) recorded by the county clerk in the land records of the county in which the real property is located;

(2) indexed by the county clerk in the general index under the names of the original parties to the instrument as they are identified in the affidavit; and

(3) admissible as evidence to the same extent as a deed or other recorded instrument in an action involving the original instrument to which it relates or the title to the real property affected by the original instrument.

E. Nothing contained in this section shall be deemed to:

(1) prohibit any other manner of correcting errors in any writings affecting title to real estate by any other lawful means such as corrective deeds, additional deeds to correct errors or modifications to mortgages or deeds of trust; or

(2) require a change to the records of the county assessor or the county treasurer.

F. A scrivener's-error affidavit shall be prepared in substantially the following form:

"SCRIVENER'S-ERROR AFFIDAVIT

I, \_\_\_\_\_ ("Affiant"), being first duly sworn, state under oath:

1. I am duly authorized to execute this Affidavit, have actual knowledge of the matters set forth within this Affidavit and am competent to testify in a court of law about the facts stated in this Affidavit.

2. I am eligible and qualified under New Mexico law to be the Affiant of this Scrivener's-Error Affidavit because of the following facts:

[Explain qualifications for eligibility].

3. The instrument containing the error that this Affidavit intends to correct is as follows:

"Original Instrument" [Describe the instrument containing the error].

4. The purpose of this Affidavit is to provide notice of the scrivener's error described in this Affidavit and to correct the Original Instrument.

5. The Original Instrument was prepared by, completed by or associated with:

\_\_\_\_\_.

6. The names and capacities of the parties to the Original Instrument are:

\_\_\_\_\_

\_\_\_\_\_.

7. The recording information, including the recording date and document, instrument or reception number for the Original Instrument, is as follows: Date of Recording \_\_\_\_\_

Recording information

\_\_\_\_\_, in the real property records of \_\_\_\_\_ County, New Mexico.

8. A brief description of each error in the Original Instrument that this Affidavit is designed to correct: \_\_\_\_\_

\_\_\_\_\_.

9. The correct information to be inserted or reflected in or the information to be removed from the Original Instrument is as follows:

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

10. This Affidavit is made under penalty of perjury.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF NEW MEXICO

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

This instrument was sworn to and acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

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Notary Public

(Seal)

My commission expires: \_\_\_\_\_ " . "

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Senate Bill 146

Approved March 8, 2016

## **LAWS 2016, CHAPTER 68**

AN ACT

RELATING TO LIQUOR CONTROL; PROVIDING FOR GOVERNMENTAL LICENSES TO BE ISSUED TO THE SPACEPORT AUTHORITY.

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

### **Chapter 68 Section 1 Laws 2016**

SECTION 1. Section 60-6A-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 27, as amended) is amended to read:

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

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

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

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

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

E. For the purposes of this section:

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

(2) "governmental facility" means locations on property owned or operated by a governmental entity, including county fairs; state fairs held for less than ten days per year; convention centers; airports; civic centers; food service facilities in state museums; auditoriums; all facilities on the New Mexico state fairgrounds; facilities used for athletic competitions; golf courses, including golf courses required to be used for municipal purposes notwithstanding that there may be an existing club license at the same location operated by the same club licensee; other facilities used for cultural or artistic performances; and all spaceport authority facilities, but "governmental facility" does not include tennis facilities;

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

(4) "municipal baseball park" means a governmental facility owned by a governmental entity in a class A county having a population of three hundred fifty thousand or more pursuant to the most recent federal decennial census that is the home stadium of an affiliate of a professional baseball team and that may be used throughout the year for baseball games and other events; and

(5) "skybox" means a room or area of seating of a municipal baseball park, separated from the general seating and usually located in the upper decks of the park, leased to a person for that person's exclusive use during baseball games and at any other time throughout the year.

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

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Senate Bill 147

Approved March 8, 2016

## **LAWS 2016, CHAPTER 69**

AN ACT

RELATING TO PROPERTY; ENACTING THE UNIFORM POWERS OF APPOINTMENT ACT; MAKING TECHNICAL AND CONFORMING CHANGES TO THE UNIFORM PROBATE CODE AND THE UNIFORM TRUST CODE; AMENDING PROVISIONS OF THE UNIFORM PROBATE CODE PERTAINING TO NOTICE, TIME FOR PRESENTATION OF CLAIMS, PENALTY CLAUSES AND CLOSING AN ESTATE.

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

Chapter 69 Article 1 Laws 2016

Article 1

GENERAL PROVISIONS

### **Chapter 69 Section 101 Laws 2016**

SECTION 101. SHORT TITLE.--Sections 101 through 603 of this act may be cited as the "Uniform Powers of Appointment Act".

### **Chapter 69 Section 102 Laws 2016**

SECTION 102. DEFINITIONS.--As used in the Uniform Powers of Appointment Act:

A. "appointee" means a person to which a powerholder makes an appointment of appointive property;

B. "appointive property" means the property or property interest subject to a power of appointment;

C. "blanket-exercise clause" means a clause in an instrument that exercises a power of appointment and is not a specific-exercise clause. "Blanket-exercise clause" includes a clause that:

(1) expressly uses the words "any power" in exercising any power of appointment the powerholder has;

(2) expressly uses the words "any property" in appointing any property over which the powerholder has a power of appointment; or

(3) disposes of all property subject to disposition by the powerholder;

D. "donor" means a person that creates a power of appointment;

E. "exclusionary power of appointment" means a power of appointment exercisable in favor of any one or more of the permissible appointees to the exclusion of the other permissible appointees;

F. "general power of appointment" means a power of appointment exercisable in favor of the powerholder, the powerholder's estate, a creditor of the powerholder or a creditor of the powerholder's estate;

G. "gift-in-default clause" means a clause identifying a taker in default of appointment;

H. "impermissible appointee" means a person that is not a permissible appointee;

I. "instrument" means a record;

J. "nongeneral power of appointment" means a power of appointment that is not a general power of appointment;

K. "permissible appointee" means a person in whose favor a powerholder may exercise a power of appointment;

L. "person" means an individual; an estate; a trust; a business or nonprofit entity; a public corporation; a government or governmental subdivision, agency or instrumentality; or another legal entity;

M. "power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. "Power of appointment" does not include a power of attorney;



N. "powerholder" means a person in which a donor creates a power of appointment;

O. "presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. "Presently exercisable power of appointment":

(1) includes a power of appointment not exercisable until the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified time only after:

(a) the occurrence of the specified event;

(b) the satisfaction of the ascertainable standard; or

(c) the passage of the specified time; and

(2) does not include a power exercisable only at the powerholder's death;

P. "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;

Q. "specific-exercise clause" means a clause in an instrument that specifically refers to and exercises a particular power of appointment;

R. "taker in default of appointment" means a person that takes all or part of the appointive property to the extent the powerholder does not effectively exercise the power of appointment; and

S. "terms of the instrument" means the manifestation of the intent of the maker of the instrument regarding the instrument's provisions as expressed in the instrument or as may be established by other evidence that would be admissible in a legal proceeding.

## **Chapter 69 Section 103 Laws 2016**

SECTION 103. GOVERNING LAW.--Unless the terms of the instrument creating a power of appointment manifest a contrary intent:

A. the creation, revocation or amendment of the power is governed by the law of the donor's domicile at the relevant time; and

B. the exercise, release or disclaimer of the power, or the revocation or amendment of the exercise, release or disclaimer of the power, is governed by the law of the powerholder's domicile at the relevant time.

## **Chapter 69 Section 104 Laws 2016**

SECTION 104. COMMON LAW AND PRINCIPLES OF EQUITY.--The common law and principles of equity supplement the Uniform Powers of Appointment Act, except to the extent modified by that act or New Mexico law other than that act.

Chapter 69 Article 2 Laws 2016

Article 2

CREATION, REVOCATION AND AMENDMENT OF POWER OF APPOINTMENT

## **Chapter 69 Section 201 Laws 2016**

SECTION 201. CREATION OF POWER OF APPOINTMENT.--

A. A power of appointment is created only if:

(1) the instrument creating the power:

(a) is valid under applicable law; and

(b) except as otherwise provided in Subsection B of this section, transfers the appointive property; and

(2) the terms of the instrument creating the power manifest the donor's intent to create in a powerholder a power of appointment over the appointive property exercisable in favor of a permissible appointee.

B. Subparagraph (b) of Paragraph (1) of Subsection A of this section does not apply to the creation of a power of appointment by the exercise of a power of appointment.

C. A power of appointment shall not be created in a deceased individual.

D. Subject to the provisions of Section 45-2-901 NMSA 1978, a power of appointment may be created in an unborn or unascertained powerholder.

## **Chapter 69 Section 202 Laws 2016**

SECTION 202. NONTRANSFERABILITY.--A powerholder shall not transfer a power of appointment. If a powerholder dies without exercising or releasing a power, the power lapses.

## **Chapter 69 Section 203 Laws 2016**

SECTION 203. PRESUMPTION OF UNLIMITED AUTHORITY.--Subject to Section 205 of the Uniform Powers of Appointment Act, and unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is:

A. presently exercisable;

B. exclusionary; and

C. except as otherwise provided in Section 204 of the Uniform Powers of Appointment Act, general.

### **Chapter 69 Section 204 Laws 2016**

SECTION 204. EXCEPTION TO PRESUMPTION OF UNLIMITED AUTHORITY.--Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the power is nongeneral if:

A. the power is exercisable only at the powerholder's death; and

B. the permissible appointees of the power are a defined and limited class that does not include the powerholder's estate, the powerholder's creditors or the creditors of the powerholder's estate.

### **Chapter 69 Section 205 Laws 2016**

SECTION 205. RULES OF CLASSIFICATION.--

A. As used in this section, "adverse party" means a person with a substantial beneficial interest in property that would be affected adversely by a powerholder's exercise or nonexercise of a power of appointment in favor of the powerholder, the powerholder's estate, a creditor of the powerholder or a creditor of the powerholder's estate.

B. If a powerholder may exercise a power of appointment only with the consent or joinder of an adverse party, the power is nongeneral.

C. If the permissible appointees of a power of appointment are not defined and limited, the power is exclusionary.

### **Chapter 69 Section 206 Laws 2016**

SECTION 206. POWER TO REVOKE OR AMEND.--A donor may revoke or amend a power of appointment only to the extent that:

A. the instrument creating the power is revocable by the donor; or

B. the donor reserves a power of revocation or amendment in the instrument creating the power of appointment.

Chapter 69 Article 3 Laws 2016

Article 3

EXERCISE OF POWER OF APPOINTMENT

### **Chapter 69 Section 301 Laws 2016**

SECTION 301. REQUISITES FOR EXERCISE OF POWER OF APPOINTMENT.--A power of appointment is exercised only:

A. if the instrument exercising the power is valid under applicable law; and

B. if the terms of the instrument exercising the power:

(1) manifest the powerholder's intent to exercise the power; and

(2) subject to Section 304 of the Uniform Powers of Appointment Act, satisfy the requirements of exercise, if any, imposed by the donor; and

C. to the extent the appointment is a permissible exercise of the power.

### **Chapter 69 Section 302 Laws 2016**

SECTION 302. INTENT TO EXERCISE--DETERMINING INTENT FROM RESIDUARY CLAUSE.--

A. As used in this section:

(1) "residuary clause" does not include a residuary clause containing a blanket-exercise clause or a specific-exercise clause; and

(2) "will" includes a codicil and a testamentary instrument that revises another will.

B. A residuary clause in a powerholder's will, or a comparable clause in the powerholder's revocable trust, manifests the powerholder's intent to exercise a power of appointment only if:

(1) the terms of the instrument containing the residuary clause do not manifest a contrary intent;

(2) the power is a general power exercisable in favor of the powerholder's estate;

(3) there is no gift-in-default clause or the gift-in-default clause is ineffective; and

(4) the powerholder did not release the power.

## **Chapter 69 Section 303 Laws 2016**

SECTION 303. INTENT TO EXERCISE--AFTER-ACQUIRED POWER.--Unless the terms of the instrument exercising a power of appointment manifest a contrary intent:

A. except as otherwise provided in Subsection B of this section, a blanket-exercise clause extends to a power acquired by the powerholder after executing the instrument containing the clause; and

B. if the powerholder is also the donor of the power, the clause does not extend to the power unless there is no gift-in-default clause or the gift-in-default clause is ineffective.

## **Chapter 69 Section 304 Laws 2016**

SECTION 304. SUBSTANTIAL COMPLIANCE WITH DONOR-IMPOSED FORMAL REQUIREMENT.--A powerholder's substantial compliance with a formal requirement of appointment imposed by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

A. the powerholder knows of and intends to exercise the power; and

B. the powerholder's manner of attempted exercise of the power does not impair a material purpose of the donor in imposing the requirement.

## **Chapter 69 Section 305 Laws 2016**

SECTION 305. PERMISSIBLE APPOINTMENT.--

A. A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

B. A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

C. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(1) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(2) create a general power in a permissible appointee; or

(3) create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power.

## **Chapter 69 Section 306 Laws 2016**

SECTION 306. APPOINTMENT TO DECEASED APPOINTEE OR PERMISSIBLE APPOINTEE'S DESCENDANT.--

A. Subject to Sections 45-2-603 and 45-2-707 NMSA 1978, an appointment to a deceased appointee is ineffective.

B. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, a powerholder of a nongeneral power may exercise the power in favor of, or create a new power of appointment in, a descendant of a deceased permissible appointee whether or not the descendant is described by the donor as a permissible appointee.

## **Chapter 69 Section 307 Laws 2016**

SECTION 307. IMPERMISSIBLE APPOINTMENT.--

A. Except as otherwise provided in Section 306 of the Uniform Powers of Appointment Act, an exercise of a power of appointment in favor of an impermissible appointee is ineffective.

B. An exercise of a power of appointment in favor of a permissible appointee is ineffective to the extent the appointment is a fraud on the power.

## **Chapter 69 Section 308 Laws 2016**

SECTION 308. SELECTIVE ALLOCATION DOCTRINE.--If a powerholder exercises a power of appointment in a disposition that also disposes of property the powerholder owns, the owned property and the appointive property must be allocated in the permissible manner that best carries out the powerholder's intent.

## **Chapter 69 Section 309 Laws 2016**

SECTION 309. CAPTURE DOCTRINE--DISPOSITION OF INEFFECTIVELY APPOINTED PROPERTY UNDER GENERAL POWER.--To the extent a powerholder of a general power of appointment, other than a power to withdraw property from, revoke or amend a trust, makes an ineffective appointment:

A. the gift-in-default clause controls the disposition of the ineffectively appointed property; or

B. if there is no gift-in-default clause or to the extent the clause is ineffective, the ineffectively appointed property:

(1) passes to:

(a) the powerholder if the powerholder is a permissible appointee and is living; or

(b) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(2) if there is no taker under Paragraph (1) of this subsection, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

## **Chapter 69 Section 310 Laws 2016**

SECTION 310. DISPOSITION OF UNAPPOINTED PROPERTY UNDER RELEASED OR UNEXERCISED GENERAL POWER.--To the extent a powerholder releases or fails to exercise a general power of appointment other than a power to withdraw property from, revoke or amend a trust:

A. the gift-in-default clause controls the disposition of the unappointed property; or

B. if there is no gift-in-default clause or to the extent the clause is ineffective:

(1) except as otherwise provided in Paragraph (2) of this subsection, the unappointed property passes to:

(a) the powerholder if the powerholder is a permissible appointee and is living; or

(b) if the powerholder is an impermissible appointee or deceased, the powerholder's estate if the estate is a permissible appointee; or

(2) to the extent the powerholder released the power, or if there is no taker under Paragraph (1) of this subsection, the unappointed property passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

## **Chapter 69 Section 311 Laws 2016**

SECTION 311. DISPOSITION OF UNAPPOINTED PROPERTY UNDER RELEASED OR UNEXERCISED NONGENERAL POWER.--To the extent a powerholder releases, ineffectively exercises or fails to exercise a nongeneral power of appointment:

A. the gift-in-default clause controls the disposition of the unappointed property; or

B. if there is no gift-in-default clause or to the extent that the clause is ineffective, the unappointed property:

(1) passes to the permissible appointees if:

(a) the permissible appointees are defined and limited; and

(b) the terms of the instrument creating the power do not manifest a contrary intent; or

(2) if there is no taker under Paragraph (1) of this subsection, passes under a reversionary interest to the donor or the donor's transferee or successor in interest.

## **Chapter 69 Section 312 Laws 2016**

SECTION 312. DISPOSITION OF UNAPPOINTED PROPERTY IF PARTIAL APPOINTMENT TO TAKER IN DEFAULT.--Unless the terms of the instrument creating or exercising a power of appointment manifest a contrary intent, if the powerholder makes a valid partial appointment to a taker in default of appointment, the taker in default of appointment may share fully in unappointed property.

## **Chapter 69 Section 313 Laws 2016**

SECTION 313. APPOINTMENT TO TAKER IN DEFAULT.--If a powerholder makes an appointment to a taker in default of appointment and the appointee would have taken the property under a gift-in-default clause had the property not been appointed, the power of appointment is deemed not to have been exercised and the appointee takes under the clause.

## **Chapter 69 Section 314 Laws 2016**



SECTION 314. POWERHOLDER'S AUTHORITY TO REVOKE OR AMEND EXERCISE.--A powerholder may revoke or amend an exercise of a power of appointment only to the extent that:

A. the powerholder reserves a power of revocation or amendment in the instrument exercising the power of appointment and, if the power is nongeneral, the terms of the instrument creating the power of appointment do not prohibit the reservation; or

B. the terms of the instrument creating the power of appointment provide that the exercise is revocable or amendable.

Chapter 69 Article 4 Laws 2016

Article 4

DISCLAIMER OR RELEASE; CONTRACT TO APPOINT OR NOT TO APPOINT

### **Chapter 69 Section 401 Laws 2016**

SECTION 401. DISCLAIMER.--As provided by the Uniform Disclaimer of Property Interests Act:

A. a powerholder may disclaim all or part of a power of appointment; and

B. a permissible appointee, appointee or taker in default of appointment may disclaim all or part of an interest in appointive property.

### **Chapter 69 Section 402 Laws 2016**

SECTION 402. AUTHORITY TO RELEASE.--A powerholder may release a power of appointment, in whole or in part, except to the extent that the terms of the instrument creating the power prevent the release.

### **Chapter 69 Section 403 Laws 2016**

SECTION 403. METHOD OF RELEASE.--A powerholder of a releasable power of appointment may release the power in whole or in part:

A. by substantial compliance with a method provided in the terms of the instrument creating the power; or

B. if the terms of the instrument creating the power do not provide a method or the method provided in the terms of the instrument is not expressly made exclusive, by a record manifesting the powerholder's intent by clear and convincing evidence.

## **Chapter 69 Section 404 Laws 2016**

SECTION 404. REVOCATION OR AMENDMENT OF RELEASE.--A powerholder may revoke or amend a release of a power of appointment only to the extent that:

- A. the instrument of release is revocable by the powerholder; or
- B. the powerholder reserves a power of revocation or amendment in the instrument of release.

## **Chapter 69 Section 405 Laws 2016**

SECTION 405. POWER TO CONTRACT--PRESENTLY EXERCISABLE POWER OF APPOINTMENT.--A powerholder of a presently exercisable power of appointment may contract:

- A. not to exercise the power; or
- B. to exercise the power if the contract when made does not confer a benefit on an impermissible appointee.

## **Chapter 69 Section 406 Laws 2016**

SECTION 406. POWER TO CONTRACT--POWER OF APPOINTMENT NOT PRESENTLY EXERCISABLE.--A powerholder of a power of appointment that is not presently exercisable may contract to exercise or not to exercise the power only if the powerholder:

- A. is also the donor of the power; and
- B. has reserved the power in a revocable trust.

## **Chapter 69 Section 407 Laws 2016**

SECTION 407. REMEDY FOR BREACH OF CONTRACT TO APPOINT OR NOT TO APPOINT.--The remedy for a powerholder's breach of a contract to appoint or not to appoint appointive property is limited to damages payable out of the appointive property or, if appropriate, specific performance of the contract.

Chapter 69 Article 5 Laws 2016

Article 5

RIGHTS OF POWERHOLDER'S CREDITORS IN APPOINTIVE PROPERTY

## **Chapter 69 Section 501 Laws 2016**

### **SECTION 501. CREDITOR CLAIM--GENERAL POWER CREATED BY POWERHOLDER.--**

A. As used in this section, "power of appointment created by the powerholder" includes a power of appointment created in a transfer by another person to the extent that the powerholder contributed value to the transfer.

B. Appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of the powerholder or of the powerholder's estate to the extent provided in the Uniform Voidable Transactions Act.

C. Subject to Subsection B of this section, appointive property subject to a general power of appointment created by the powerholder is not subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent the powerholder irrevocably appointed the property in favor of a person other than the powerholder or the powerholder's estate.

D. Subject to Subsections B and C of this section, and notwithstanding the presence of a spendthrift provision or whether the claim arose before or after the creation of the power of appointment, appointive property subject to a general power of appointment created by the powerholder is subject to a claim of a creditor of:

(1) the powerholder, to the same extent as if the powerholder owned the appointive property, if the power is presently exercisable; and

(2) the powerholder's estate, to the extent the estate is insufficient to satisfy the claim and subject to the right of a decedent to direct the source from which liabilities are paid, if the power is exercisable at the powerholder's death.

## **Chapter 69 Section 502 Laws 2016**

### **SECTION 502. CREDITOR CLAIM--GENERAL POWER NOT CREATED BY POWERHOLDER.--**

A. Except as otherwise provided in Subsection B of this section, appointive property subject to a general power of appointment created by a person other than the powerholder is subject to a claim of a creditor of:

(1) the powerholder, to the extent that the powerholder's property is insufficient, if the power is presently exercisable; and

(2) the powerholder's estate, to the extent that the estate is insufficient, subject to the right of a decedent to direct the source from which liabilities are paid.

B. Subject to Subsection C of Section 504 of the Uniform Powers of Appointment Act, a power of appointment created by a person other than the powerholder that is subject to an ascertainable standard relating to an individual's health, education, support or maintenance within the meaning of 26 U.S.C. Section 2041(b)(1)(A), as amended, or 26 U.S.C. Section 2514(c)(1), as amended, is treated for purposes of this article as a nongeneral power.

## **Chapter 69 Section 503 Laws 2016**

### **SECTION 503. POWER TO WITHDRAW.--**

A. For purposes of this article and except as otherwise provided in Subsection B of this section, a power to withdraw property from a trust is treated, during the time the power may be exercised, as a presently exercisable general power of appointment to the extent of the property subject to the power to withdraw.

B. On the lapse, release or waiver of a power to withdraw property from a trust, the power is treated as a presently exercisable general power of appointment only to the extent that the value of the property affected by the lapse, release or waiver exceeds the greater of the amount specified in 26 U.S.C. Section 2041(b)(2), as amended, and 26 U.S.C. Section 2514(e), as amended, or the amount specified in 26 U.S.C. Section 2503(b), as amended.

## **Chapter 69 Section 504 Laws 2016**

### **SECTION 504. CREDITOR CLAIM--NONGENERAL POWER.--**

A. Except as otherwise provided in Subsections B and C of this section, appointive property subject to a nongeneral power of appointment is exempt from a claim of a creditor of the powerholder or the powerholder's estate.

B. Appointive property subject to a nongeneral power of appointment is subject to a claim of a creditor of the powerholder or the powerholder's estate to the extent that the powerholder owned the property and, reserving the nongeneral power, transferred the property in violation of the Uniform Voidable Transactions Act.

C. If the initial gift in default of appointment is to the powerholder or the powerholder's estate, a nongeneral power of appointment is treated for purposes of this article as a general power.

Chapter 69 Article 6 Laws 2016

Article 6

MISCELLANEOUS PROVISIONS

## **Chapter 69 Section 601 Laws 2016**

SECTION 601. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Powers of Appointment Act, consideration shall be given to the need to promote uniformity of the act with respect to its subject matter among states that enact it.

## **Chapter 69 Section 602 Laws 2016**

SECTION 602. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Powers of Appointment Act modifies, limits or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

## **Chapter 69 Section 603 Laws 2016**

SECTION 603. APPLICATION TO EXISTING RELATIONSHIPS.--

A. Except as otherwise provided in the Uniform Powers of Appointment Act, on and after January 1, 2017:

(1) the Uniform Powers of Appointment Act applies to a power of appointment created before, on or after January 1, 2017;

(2) the Uniform Powers of Appointment Act applies to a judicial proceeding concerning a power of appointment commenced on or after January 1, 2017;

(3) the Uniform Powers of Appointment Act applies to a judicial proceeding concerning a power of appointment commenced before January 1, 2017 unless the court finds that application of a particular provision of the Uniform Powers of Appointment Act would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of the Uniform Powers of Appointment Act does not apply and the superseded law applies;

(4) a rule of construction or presumption provided in the Uniform Powers of Appointment Act applies to an instrument executed before January 1, 2017 unless there is a clear indication of a contrary intent in the terms of the instrument; and

(5) except as otherwise provided in Paragraphs (1) through (4) of this subsection, an action done before January 1, 2017 is not affected by the Uniform Powers of Appointment Act.

B. If a right is acquired, extinguished or barred on the expiration of a prescribed period that commenced under New Mexico law other than the Uniform Powers of Appointment Act before January 1, 2017, the law continues to apply to the right.

## **Chapter 69 Section 701 Laws 2016**

SECTION 701. Section 45-1-108 NMSA 1978 (being Laws 1975, Chapter 257, Section 1-108) is amended to read:

"45-1-108. ACTS BY HOLDER OF GENERAL POWER.--For the purpose of granting consent or approval with regard to the acts or accounts of a personal representative or trustee, including relief from liability or penalty for failure to post bond, or to perform other duties, and for purposes of consenting to modification or termination of a trust or deviation from its terms, the sole holder or all co-holders of a presently exercisable general power of appointment, including one in the form of a power of amendment or revocation, are deemed to act for beneficiaries to the extent their interests, as objects, takers in default or otherwise, are subject to the power."

## **Chapter 69 Section 702 Laws 2016**

SECTION 702. Section 45-1-401 NMSA 1978 (being Laws 1975, Chapter 257, Section 1-401) is amended to read:

"45-1-401. NOTICE--METHOD AND TIME OF GIVING.--

A. If notice of a hearing on any petition is required and except for specific notice requirements as otherwise provided, the petitioner shall cause notice of the time and place of hearing of any petition to be given to any interested person or, if the interested person is represented by an attorney, to the attorney. Notice shall be given:

(1) by mailing a copy thereof at least fourteen days before the time set for the hearing by certified, registered or ordinary first class mail addressed to the person being notified at the post office address given in the demand for notice, if any, or at the person's office or place of residence, if known;

(2) by service of a copy thereof upon the person being notified in the manner provided by the rules of civil procedure for service of summons and complaint in civil actions; or

(3) if the address or identity of any person is not known and cannot be ascertained with reasonable diligence, by publishing a copy thereof once a week for three consecutive weeks in a newspaper of general circulation in the county in which the hearing is to be held, the last publication of which is to be at least ten days before the time set for the hearing.

B. The court for good cause shown may provide for a different method or time of giving notice for a hearing.

C. Proof of the giving of notice shall be made on or before the hearing and filed in the proceeding."

### **Chapter 69 Section 703 Laws 2016**

SECTION 703. Section 45-1-403 NMSA 1978 (being Laws 1975, Chapter 257, Section 1-403, as amended) is amended to read:

"45-1-403. PLEADINGS.--In formal proceedings involving trusts, or estates of decedents, minors, protected persons or incapacitated persons, and in judicially supervised settlements, interests to be affected shall be described in pleadings that give reasonable information to owners by name or class, by reference to the instrument creating the interests or in another appropriate manner."

### **Chapter 69 Section 704 Laws 2016**

SECTION 704. A new section of the Uniform Probate Code, Section 45-1-403.1 NMSA 1978, is enacted to read:

"45-1-403.1. REPRESENTATION--BASIC EFFECT.--

A. Notice to a person who may represent and bind another person pursuant to the provisions of Chapter 45 NMSA 1978 has the same effect as if notice were given directly to the other person.

B. The consent of a person who may represent and bind another person pursuant to the provisions of Chapter 45 NMSA 1978 is binding on the person represented unless the person represented objects to the representation before the consent would otherwise have become effective.

C. Except as otherwise provided in Sections 46A-4-411 and 46A-6-602 NMSA 1978, a person who, pursuant to the provisions of Chapter 45 NMSA 1978, may represent a settlor who lacks capacity, may receive notice and give a binding consent on the settlor's behalf.

D. A settlor shall not represent or bind a beneficiary pursuant to the provisions of Chapter 45 NMSA 1978 with respect to the termination or modification of a trust under Subsection A of Section 46A-4-411 NMSA 1978."

### **Chapter 69 Section 705 Laws 2016**

SECTION 705. A new section of the Uniform Probate Code, Section 45-1-403.2 NMSA 1978, is enacted to read:

"45-1-403.2. REPRESENTATION BY HOLDER OF GENERAL TESTAMENTARY POWER OF APPOINTMENT.--To the extent there is no conflict of interest between the holder of a general testamentary power of appointment and the persons represented with respect to the particular question or dispute, the holder may represent and bind persons whose interests, as permissible appointees, takers in default or otherwise, are subject to the power."

## **Chapter 69 Section 706 Laws 2016**

SECTION 706. A new section of the Uniform Probate Code, Section 45-1-403.3 NMSA 1978, is enacted to read:

"45-1-403.3. REPRESENTATION BY FIDUCIARIES AND PARENTS.--To the extent there is no conflict of interest between the representative and the person represented or among those being represented with respect to a particular question or dispute:

A. a conservator may represent and bind the estate that the conservator controls;

B. a guardian may represent and bind the protected person if a conservator of the protected person's estate has not been appointed;

C. an agent having authority to act with respect to the particular question or dispute may represent and bind the principal;

D. a trustee may represent and bind the beneficiaries of the trust;

E. a personal representative of a decedent's estate may represent and bind persons interested in the estate; and

F. a parent may represent and bind the parent's minor or unborn child if a conservator or guardian for the child has not been appointed."

## **Chapter 69 Section 707 Laws 2016**

SECTION 707. A new section of the Uniform Probate Code, Section 45-1-403.4 NMSA 1978, is enacted to read:

"45-1-403.4. REPRESENTATION BY PERSON HAVING SUBSTANTIALLY IDENTICAL INTEREST.--Unless otherwise represented, a minor, incapacitated or unborn person, or a person whose identity or location is unknown and not reasonably ascertainable, may be represented by and bound by another having a substantially identical interest with respect to the particular question or dispute, but only to the extent that there is no conflict of interest between the representative and the person represented."



## **Chapter 69 Section 708 Laws 2016**

SECTION 708. A new section of the Uniform Probate Code, Section 45-1-403.5 NMSA 1978, is enacted to read:

"45-1-403.5. APPOINTMENT OF REPRESENTATIVE.--

A. If the court determines that an interest is not represented under Chapter 45 NMSA 1978, or that the otherwise available representation might be inadequate, the court may appoint a representative to receive notice, give consent and otherwise represent, bind and act on behalf of a minor, incapacitated or unborn person, or a person whose identity or location is unknown. A representative may be appointed to represent several persons or interests.

B. A representative may act on behalf of the person represented with respect to any matter arising under the Uniform Probate Code, whether or not a judicial proceeding concerning the estate is pending.

C. In making decisions, a representative may consider the general benefit accruing to the living members of the person's family."

## **Chapter 69 Section 709 Laws 2016**

SECTION 709. Section 45-2-506 NMSA 1978 (being Laws 1993, Chapter 174, Section 29) is amended to read:

"45-2-506. CHOICE OF LAW AS TO EXECUTION.--A written will is valid if executed in compliance with Section 45-2-502 NMSA 1978 or if its execution complies with the law at the time of execution of the place where the will is executed or of the law of the place where at the time of execution or at the time of death the testator is domiciled, has a place of abode or is a national."

## **Chapter 69 Section 710 Laws 2016**

SECTION 710. Section 45-2-517 NMSA 1978 (being Laws 1995, Chapter 210, Section 13) is amended to read:

"45-2-517. PENALTY CLAUSE FOR CONTEST.--A provision in a governing instrument purporting to penalize an interested person for contesting the governing instrument or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings."

## **Chapter 69 Section 711 Laws 2016**

SECTION 711. Section 45-2-608 NMSA 1978 (being Laws 1993, Chapter 174, Section 47) is amended to read:

"45-2-608. EXERCISE OF POWER OF APPOINTMENT.--In the absence of a requirement that a power of appointment be exercised by a reference or by an express or specific reference to the power, a general residuary clause in a will or a will making general disposition of all of the testator's property expresses an intention to exercise a power of appointment held by the testator only if:

A. the power is a general power exercisable in favor of the powerholder's estate and the creating instrument does not contain an effective gift if the power is not exercised; or

B. the testator's will manifests an intention to include the property subject to the power."

### **Chapter 69 Section 712 Laws 2016**

SECTION 712. Section 45-2-704 NMSA 1978 (being Laws 1993, Chapter 174, Section 52) is amended to read:

"45-2-704. POWER OF APPOINTMENT--COMPLIANCE WITH SPECIFIC REFERENCE REQUIREMENT.--A powerholder's substantial compliance with a formal requirement of appointment imposed in a governing instrument by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

A. the powerholder knows of and intends to exercise the power; and

B. the powerholder's manner of attempted exercise does not impair a material purpose of the donor in imposing the requirement."

### **Chapter 69 Section 713 Laws 2016**

SECTION 713. Section 45-2-904 NMSA 1978 (being Laws 1992, Chapter 66, Section 4, as amended) is amended to read:

"45-2-904. EXCLUSIONS.--Section 45-2-901 NMSA 1978 does not apply to:

A. a nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

(1) a premarital or postmarital agreement;

(2) a separation or divorce settlement;

(3) a spouse's election;

(4) a similar arrangement arising out of a prospective, existing or previous marital relationship between the parties;

(5) a contract to make or not to revoke a will or trust;

(6) a contract to exercise or not to exercise a power of appointment;

(7) a transfer in satisfaction of a duty of support; or

(8) a reciprocal transfer;

B. a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property and the power of a fiduciary to determine principal and income;

C. a power to appoint a fiduciary;

D. a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

E. a nonvested property interest held by a charity, government or governmental agency or subdivision if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

F. a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral or other current or deferred benefit plan for one or more employees, independent contractors or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse; or

G. a property interest, power of appointment or arrangement that was not subject to the common-law rule against perpetuities or that is excluded by another statute of New Mexico."

## **Chapter 69 Section 714 Laws 2016**

SECTION 714. Section 45-3-712 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-712) is amended to read:

"45-3-712. IMPROPER EXERCISE OF POWER--BREACH OF FIDUCIARY DUTY.--If the exercise of power concerning the estate is improper, the personal representative is liable to interested persons for damage or loss resulting from breach of the personal representative's fiduciary duty to the same extent as a trustee of an express trust. The rights of purchasers and others dealing with a personal representative shall be determined as provided in Sections 45-3-713 and 45-3-714 NMSA 1978."

## **Chapter 69 Section 715 Laws 2016**

SECTION 715. Section 45-3-801 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-801, as amended) is repealed and a new Section 45-3-801 NMSA 1978 is enacted to read:

"45-3-801. NOTICE TO CREDITORS.--

A. A personal representative upon appointment may publish a notice to creditors once a week for three successive weeks in a newspaper of general circulation in the county in which the probate proceeding is pending, announcing the personal representative's appointment and address and notifying creditors of the estate to present their claims within four months after the date of the first publication of the notice or be forever barred.

B. A personal representative may give written notice by mail or other delivery to a creditor, announcing the personal representative's appointment and address and notifying the creditor to present the creditor's claim within four months after the published notice, if given as provided in Subsection A of this section, or within sixty days after the mailing or other delivery of the notice, whichever is later, or be forever barred.

C. The personal representative is not liable to anyone for giving or failing to give notice pursuant to this section."

## **Chapter 69 Section 716 Laws 2016**

SECTION 716. Section 45-3-803 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-803, as amended) is amended to read:

"45-3-803. LIMITATIONS ON PRESENTATION OF CLAIMS.--

A. All claims against a decedent's estate that arose before the death of the decedent, including claims of the state and any political subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated or founded on contract, tort or other legal basis, if not barred earlier by another statute of limitations or nonclaim statute, are barred against the estate, the personal representative and the

heirs, devisees and nonprobate transferees of the decedent unless presented within the earlier of the following:

(1) one year after the decedent's death; or

(2) the time provided by Subsection B of Section 45-3-801 NMSA 1978 for creditors who are given actual notice and the time provided in Subsection A of Section 45-3-801 NMSA 1978 for all creditors barred by publication.

B. A claim described in Subsection A of this section that is barred by the nonclaim statute of the decedent's domicile before the giving of notice to creditors in this state is barred in this state.

C. All claims against a decedent's estate that arise at or after the death of the decedent, including claims of the state and any political subdivision of the state, whether due or to become due, absolute or contingent, liquidated or unliquidated or founded on contract, tort or other legal basis, are barred against the estate, the personal representative and the heirs and devisees of the decedent unless presented as follows:

(1) a claim based on a contract with the personal representative within four months after performance by the personal representative is due; or

(2) any other claim within the later of four months after it arises or the time specified in Paragraph (1) of this subsection.

D. Nothing in this section affects or prevents:

(1) any proceeding to enforce any mortgage, pledge or other lien upon property of the estate;

(2) to the limits of the insurance protection only, a proceeding to establish liability of the decedent or the personal representative for which the decedent or personal representative is protected by liability insurance; or

(3) collection of compensation for services rendered and reimbursement for expenses advanced by the personal representative or by the attorney or accountant for the personal representative of the estate."

## **Chapter 69 Section 717 Laws 2016**

SECTION 717. Section 45-3-902 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-902, as amended) is amended to read:

"45-3-902. DISTRIBUTION--ORDER IN WHICH ASSETS APPROPRIATED--  
ABATEMENT.--

A. Except as provided in Subsection C of this section, shares of distributees abate, without any preference or priority as between real and personal property, in the following order:

- (1) property not disposed of by the will;
- (2) residuary devises;
- (3) general devises; and
- (4) specific devises.

B. For purposes of abatement, a general devise charged on any specific property or fund is a specific devise to the extent of the value of the property on which it is charged and, upon the failure or insufficiency of the property on which it is charged, a general devise to the extent of the failure or insufficiency. Abatement within each classification is in proportion to the amounts of property each of the beneficiaries would have received if full distribution of the property had been made in accordance with the terms of the will.

C. If the will expresses an order of abatement or if the testamentary plan or the express or implied purpose of the devise would be defeated by the order of abatement stated in Subsection A of this section, the shares of the distributees abate as may be found necessary to give effect to the intention of the testator.

D. If an estate of a decedent consists partly of separate property and partly of community property, the debts and expenses of administration shall be apportioned and charged against the different kinds of property in accordance with the provisions of Subsection B of Section 45-2-807 NMSA 1978.

E. If the subject of a preferred devise is sold or used incident to administration, abatement shall be achieved by appropriate adjustments in or contribution from other interests in the remaining assets."

## **Chapter 69 Section 718 Laws 2016**

SECTION 718. Section 45-3-905 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-905) is repealed and a new Section 45-3-905 NMSA 1978 is enacted to read:

"45-3-905. PENALTY CLAUSE FOR CONTEST.--A provision in a will purporting to penalize any interested person for contesting the will or instituting other proceedings relating to the estate is unenforceable if probable cause exists for instituting proceedings."

## **Chapter 69 Section 719 Laws 2016**

SECTION 719. Section 45-3-912 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-912) is amended to read:

"45-3-912. PRIVATE AGREEMENTS AMONG SUCCESSORS TO DECEDENT BINDING ON PERSONAL REPRESENTATIVE.--Subject to the rights of creditors and taxing authorities, successors or their representatives may agree among themselves to alter the interests, shares or amounts to which they are entitled under the will of the decedent or under the laws of intestacy in any way that they provide in a written contract executed by all who are affected by its provisions. The personal representative shall abide by the terms of the agreement subject to the personal representative's obligation to administer the estate for the benefit of creditors, to pay all taxes and costs of administration and to carry out the responsibilities of the personal representative's office for the benefit of any successors of the decedent who are not parties. Personal representatives of decedents' estates are not required to see to the performance of trusts if the trustee thereof is another person who is willing to accept the trust. Accordingly, trustees of a testamentary trust are successors for the purposes of this section. Nothing in this section relieves trustees of any duties owed to beneficiaries of trusts."

## **Chapter 69 Section 720 Laws 2016**

SECTION 720. Section 45-3-1003 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-1003, as amended) is amended to read:

"45-3-1003. CLOSING ESTATES--BY SWORN STATEMENT OF PERSONAL REPRESENTATIVE.--

A. Unless prohibited by order of the district court and except for estates being administered in supervised administration proceedings, a personal representative may close an estate by filing with the court, no earlier than six months after the date of original appointment of a general personal representative for the estate, a verified statement stating that the personal representative or a previous personal representative has:

(1) determined that the time limited for presentation of creditors' claims has expired;

(2) fully administered the estate of the decedent by making payment, settlement or other disposition of all claims that were presented, expenses of administration and estate, inheritance and other death taxes, except as specified in the statement, and that the assets of the estate have been distributed to the persons entitled. If any claims remain undischarged, the statement shall state whether the personal representative has distributed the estate subject to possible liability with the agreement of the distributees or it shall state in detail other arrangements that have been made to accommodate outstanding liabilities; and

(3) sent a copy of the statement to all distributees of the estate and to all creditors or other claimants of whom the personal representative is aware whose claims are neither paid nor barred and has furnished a full account in writing of the personal representative's administration to the distributees whose interests are affected thereby, including guardians ad litem appointed pursuant to Section 45-1-403 NMSA 1978, conservators and guardians.

B. If no proceedings involving the personal representative are pending in the district court one year after the closing statement is filed, the appointment of the personal representative terminates."

## **Chapter 69 Section 721 Laws 2016**

SECTION 721. Section 45-3-1101 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-1101, as amended) is amended to read:

"45-3-1101. EFFECT OF APPROVAL OF AGREEMENTS INVOLVING TRUSTS, INALIENABLE INTERESTS OR INTERESTS OF THIRD PERSONS.--

A. A compromise of any controversy is binding on all the parties thereto as to any lawful matter involving the estate. Matters that may be resolved by the compromise include:

(1) admission to probate of any instrument offered for formal probate as the will of a decedent;

(2) the construction, validity or effect of any governing instrument;

(3) the rights or interests in the estate of the decedent;

(4) the rights or interests of any successor; and

(5) the administration of the estate, if approved in a formal proceeding in the district court for that purpose.

B. A court-approved compromise is binding even though it may affect a trust or an inalienable interest. A compromise does not impair the rights of creditors or of taxing authorities that are not parties to it."

## **Chapter 69 Section 722 Laws 2016**

SECTION 722. Section 45-3-1102 NMSA 1978 (being Laws 1975, Chapter 257, Section 3-1102, as amended) is amended to read:



"45-3-1102. PROCEDURE FOR SECURING COURT APPROVAL OF COMPROMISE.--The procedure for securing court approval of a compromise is as follows:

A. the terms of the compromise shall be set forth in an agreement in writing that shall be executed by all persons or their representatives having beneficial interests or having claims that will or may be affected by the compromise;

B. any interested person, or the person's representative, including the personal representative, if any, or a trustee, may then submit the agreement to the district court for its approval and for execution by the personal representative, the trustee of every affected testamentary trust and other fiduciaries and representatives; and

C. after notice to all interested persons or their representatives, including the personal representative of any estate and all affected trustees of trusts, the district court, if it finds that an actual contest or controversy exists and that the effect of the agreement upon the interests of persons represented by fiduciaries or other representatives is just and reasonable, shall make an order approving the agreement and directing all fiduciaries under its supervision to execute the agreement. Minor children represented only by their parents may be bound only if their parents join with other persons or their representatives in execution of the compromise. Upon the making of the order and the execution of the agreement, all further disposition of the estate shall then be made in accordance with the terms of the agreement."

## **Chapter 69 Section 723 Laws 2016**

SECTION 723. Section 46A-1-113 NMSA 1978 (being Laws 2011, Chapter 124, Section 95) is amended to read:

"46A-1-113. INSURABLE INTEREST OF TRUSTEE.--

A. In this section, "settlor" means a person that executes a trust instrument. "Settlor" includes a person for which a fiduciary or agent is acting.

B. A trustee of a trust has an insurable interest in the life of an individual insured under a life insurance policy that is owned by the trustee of the trust acting in a fiduciary capacity or that designates the trust itself as the owner if, on the date the policy is issued:

(1) the insured is:

(a) a settlor of the trust; or

(b) an individual in whom a settlor of the trust has, or would have had if living at the time the policy was issued, an insurable interest; and

(2) the life insurance proceeds are primarily for the benefit of one or more trust beneficiaries that have:

(a) an insurable interest in the life of the insured; or

(b) a substantial interest engendered by love and affection in the continuation of the life of the insured and, if not already included under Subparagraph (a) of this paragraph, who are: 1) related within the third degree or closer, as measured by the civil law system of determining degrees of relation, either by blood or law, to the insured; or 2) stepchildren of the insured."

### **Chapter 69 Section 724 Laws 2016**

SECTION 724. REPEAL.--Sections 45-2-608 and 45-2-704 NMSA 1978 (being Laws 1993, Chapter 174, Sections 47 and 52) are repealed.

### **Chapter 69 Section 725 Laws 2016**

SECTION 725. REPEAL.--Section 45-2-907 NMSA 1978 (being Laws 1995, Chapter 210, Section 30) is repealed.

### **Chapter 69 Section 726 Laws 2016**

SECTION 726. TEMPORARY PROVISION--INSTRUCTION TO COMPILER.--The compiler shall compile Sections 101 through 603 of this act in Chapter 46 NMSA 1978.

### **Chapter 69 Section 727 Laws 2016**

SECTION 727. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 701 through 723 and 725 of this act is July 1, 2016.

B. The effective date of the provisions of Sections 101 through 603 and 724 of this act is January 1, 2017.

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Senate Bill 155

Approved March 8, 2016

## **LAWS 2016, CHAPTER 70**

AN ACT

RELATING TO MOTOR VEHICLES; MAKING A DEFINITION FOR "NATURAL GAS VEHICLES"; INCREASING THE WEIGHT LIMIT FOR NATURAL GAS VEHICLES.

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

**Chapter 70 Section 1 Laws 2016**

SECTION 1. Section 66-1-4.12 NMSA 1978 (being Laws 1990, Chapter 120, Section 13, as amended) is amended to read:

"66-1-4.12. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "natural gas vehicle" means a vehicle operated by an engine that primarily uses natural gas;

B. "neighborhood electric car" means a four-wheeled electric motor vehicle that has a maximum speed of more than twenty miles per hour but less than twenty-five miles per hour and complies with the federal requirements specified in 49 CFR 571.500;

C. "nonrepairable vehicle" means a vehicle of a type otherwise subject to registration that:

(1) has no resale value except as a source of parts or scrap metal or that the owner irreversibly designates as a source of parts or scrap metal or for destruction;

(2) has been substantially stripped as a result of theft or is missing all of the bolts on sheet metal body panels, all of the doors and hatches, substantially all of the interior components and substantially all of the grill and light assemblies and has little or no resale value other than its worth as a source of a vehicle identification number that could be used illegally; or

(3) is a substantially burned vehicle that has burned to the extent that there are no more usable or repairable body or interior components, tires and wheels or drive train components or that the owner irreversibly designates for destruction or as having little or no resale value other than its worth as a source of scrap metal or as a source of a vehicle identification number that could be used illegally;

D. "nonrepairable vehicle certificate" means a vehicle ownership document conspicuously labeled "NONREPAIRABLE" issued to the owner of the nonrepairable vehicle;

E. "nonresident" means every person who is not a resident of this state;

F. "nonresident commercial driver's license" means a commercial driver's license issued by another state to a person domiciled in that state or by a foreign country to a person domiciled in that country; and

G. "nonresident's operating privilege" means the privilege conferred upon a nonresident by the laws of this state pertaining to the operation by the nonresident of a motor vehicle, or the use of a motor vehicle owned by the nonresident, in this state."

## **Chapter 70 Section 2 Laws 2016**

SECTION 2. Section 66-7-409 NMSA 1978 (being Laws 1978, Chapter 35, Section 480, as amended) is amended to read:

"66-7-409. LOAD LIMITS ON SINGLE AXLES, WHEELS AND TIRES.--

A. Except as provided by Subsection D of this section, the gross weight imposed on the highway by the wheels of any one axle of a vehicle shall not exceed twenty-one thousand six hundred pounds nor shall any one wheel carry a load in excess of eleven thousand pounds.

B. For the purposes of Sections 66-7-401 through 66-7-416 NMSA 1978, a single-axle load is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches or less apart extending across the full width of the vehicle. A tandem axle load is defined as the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes more than forty inches apart but less than one hundred twenty inches apart, extending across the full width of the vehicle. The allowed load on tandem axles shall not exceed the gross weight given in Section 66-7-410 NMSA 1978 for the respective distance between the axles.

C. No wheel equipped with pneumatic, solid rubber or cushion tires shall carry a load in excess of six hundred pounds for each inch of tire width. The width of pneumatic tires shall be taken at the manufacturer's rating. The width of solid rubber and cushion tires shall be measured at the flange of the rim.

D. The division shall by rule establish standard weight limits for the wheels of any one vehicle axle and any one wheel that allow for the gross weight limitation increases authorized for natural gas vehicles."

## **Chapter 70 Section 3 Laws 2016**

SECTION 3. Section 66-7-410 NMSA 1978 (being Laws 1978, Chapter 35, Section 481, as amended) is amended to read:

"66-7-410. GROSS WEIGHT OF VEHICLES AND LOADS.--

A. Subject to the limit upon the weight imposed upon the highway through any one axle as set forth in Section 66-7-409 NMSA 1978 and except as provided in Subsection D of this section, the total gross weight with load imposed upon the highway by any one group of two or more consecutive axles of a vehicle or combination of vehicles shall not exceed the gross weight given for the respective distance between the first and last axle of the group of axles measured longitudinally to the nearest foot as set forth in the following table:

Distance in feet between first and last axles of group	Allowed load in pounds on group of axles
4	34,320
5	35,100
6	35,880
7	36,660
8	37,440
9	38,220
10	39,000
11	39,780
12	40,560
13	41,340
14	42,120
15	42,900
16	43,680
17	44,460
18	45,240.

B. Except as provided in Subsection D of this section, the total gross weight with load imposed on the highway by any vehicle or combination of vehicles where the distance between the first and last axles is more than eighteen feet shall not exceed that given for the respective distances in the following table:

Distance in feet between first      Allowed load in pounds  
and last axles of group      on group of axles

19    53,100

20    54,000

21    54,900

22    55,800

23    56,700

24    57,600

25    58,500

26    59,400

27    60,300

28    61,200

29    62,100

30    63,000

31    63,900

32    64,800

33    65,700

34    66,600

35    67,500

36    68,400

37    69,300

38    70,200

39    71,100

40	72,000
41	72,900
42	73,800
43	74,700
44	75,600
45	76,500
46	77,400
47	78,300
48	79,200
49	80,100
50	81,000
51	81,900
52	82,800
53	83,700
54	84,600
55	85,500
56 or over	86,400.

C. The distance between the centers of the axles shall be measured to the nearest even foot. When a fraction is exactly one-half, the next larger whole number shall be used.

D. The total gross weight with load limitations imposed by this section for any vehicle or combination of vehicles shall be increased by:

(1) four hundred pounds if the vehicle or combination of vehicles uses idle reduction technology; or

(2) if the vehicle is a natural gas vehicle, a standard gross weight limit increase for each axle distance category in this section, established by the division

by rule, by an amount equal to the difference between the average weight of the vehicle attributable to its natural gas tank and fuel system and the average weight of a comparable diesel tank and fuel system."

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House Bill 176

Approved March 8, 2016

## **LAWS 2016, CHAPTER 71**

AN ACT

RELATING TO NATURAL RESOURCES; PROVIDING FOR THE DEVELOPMENT, REGULATION AND CONSERVATION OF GEOTHERMAL RESOURCES; REPEALING THE GEOTHERMAL RESOURCES CONSERVATION ACT AND ENACTING THE GEOTHERMAL RESOURCES DEVELOPMENT ACT; REQUIRING GEOTHERMAL PERMITS; PROVIDING POWERS AND DUTIES; PRESCRIBING CIVIL PENALTIES AND REMEDIES.

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

### **Chapter 71 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Geothermal Resources Development Act".

### **Chapter 71 Section 2 Laws 2016**

SECTION 2. FINDINGS AND PURPOSE.--The legislature finds that the people of New Mexico have a direct interest in the development of geothermal resources and that the state should exercise its power and jurisdiction through the division to require that geothermal resources be explored, developed and produced in such a manner as to safeguard life, health, property, natural resources and the public welfare and to encourage maximum economic recovery.

### **Chapter 71 Section 3 Laws 2016**

SECTION 3. DEFINITIONS.--As used in the Geothermal Resources Development Act:

A. "correlative rights" means the opportunity afforded, insofar as is practicable, to each owner or leaseholder in a geothermal reservoir to produce the owner's or leaseholder's just and equitable share of the geothermal resources within



such reservoir, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the recoverable geothermal resources of such ownership or lease interest bear to the total recoverable geothermal resources in the reservoir and, for such purpose, to use the owner's or leaseholder's just and equitable share of the natural heat or energy in the reservoir;

B. "division" means the energy conservation and management division of the energy, minerals and natural resources department;

C. "geothermal reservoir" means an underground reservoir containing geothermal resources, whether the fluids in the reservoir are native to the reservoir or flow into or are injected into the reservoir;

D. "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 that 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 geo-exchange heat pump or similar on-site system; and

E. "person" means an individual or other legal entity, including federal, state or local governments or their agents or instrumentalities.

## **Chapter 71 Section 4 Laws 2016**

### **SECTION 4. EXCLUSION--INCIDENTAL LOSS OR EXTRACTION OF HEAT-- LIMITED EXCEPTION.--**

A. A permit from the state engineer is not required for the use of ground water over two hundred fifty degrees Fahrenheit as incident to the development of geothermal resources permitted pursuant to the Geothermal Resources Development Act when:

(1) the use does not require any diversion of ground water; or

(2) all diverted ground water is reinjected as soon as practicable into the same ground water source from which it was diverted, resulting in no new depletions to the source; provided that:

(a) the division shall provide to the state engineer all information available to the division regarding the proposed diversion and reinjection

and shall request the opinion of the state engineer as to whether existing ground water rights sharing the same ground water source may be impaired; and

(b) if the state engineer determines that the information provided is sufficient to render an opinion and it is the opinion of the state engineer that any existing ground water rights may be impaired, the division, upon receipt of the opinion of the state engineer, shall require the owner or operator to submit to the division a plan of replacement with regard to any existing ground water rights that are likely to be impaired.

B. In response to a request for opinion pursuant to Subsection A of this section, the determination by the state engineer as to whether the information provided is sufficient to render an opinion or the issuance by the state engineer of an opinion shall not constitute a decision, act or refusal to act under Section 72-2-16 NMSA 1978.

C. No ground water right is established through the use of ground water as allowed in Subsection A of this section.

D. As used in this section, "plan of replacement" means a detailed plan for the replacement of water, which may include:

- (1) the furnishing of a substitute water supply;
- (2) the modification of existing water supply facilities;
- (3) the drilling of replacement wells;
- (4) the assumption of additional operating costs;
- (5) the procurement of documentation establishing a waiver of protection by owners of affected water rights;
- (6) artificial recharge; or
- (7) any other means to avoid impairment of water rights.

## **Chapter 71 Section 5 Laws 2016**

### **SECTION 5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF THE DIVISION.--**

A. The division shall regulate the exploration, development and production of geothermal resources on public and private land for the purposes of conservation; protection of correlative rights; protection of life, health, property, natural resources, the environment and the public welfare; and encouraging maximum economic recovery of

the geothermal resources. The division may require persons seeking to explore, develop or produce geothermal resources to obtain permits from the division.

B. The division has jurisdiction over all matters relating to the exploration, development and production of geothermal resources. It has jurisdiction, authority and control of all persons, matters and things necessary or proper to enforce effectively the provisions of the Geothermal Resources Development Act, including making investigations and inspections of geothermal projects, facilities and wells.

C. The division may limit and allocate production of geothermal resources as needed to prevent waste whenever the total amount of geothermal resources that may be produced from a geothermal reservoir is limited. The division shall allocate and distribute the allowable production, insofar as is practicable, to afford each ownership or lease interest in a geothermal reservoir the opportunity to produce its just and equitable share of the geothermal resources in the reservoir.

D. The division shall have exclusive authority to regulate injection into geothermal wells pursuant to the Geothermal Resources Development Act and shall have exclusive authority over matters related to the protection of natural resources, property, health and public welfare as they relate to geothermal injection wells.

## **Chapter 71 Section 6 Laws 2016**

### **SECTION 6. RULES.--**

A. The division shall promulgate and enforce rules providing for the exploration, development and production of geothermal resources and to accomplish the purposes of the Geothermal Resources Development Act and that are reasonably necessary to carry out the purposes of that act whether or not indicated or specified in any section of that act.

B. The rules shall include, at minimum, provisions to:

(1) protect the environment against damage resulting from the exploration, development or production of geothermal resources;

(2) prevent waste of natural resources, including geothermal resources, in connection with the exploration, development or production of geothermal resources;

(3) ensure proper casing to prevent geothermal resources, water or other fluids from escaping from the strata in which they are found into other strata;

(4) prevent the premature cooling of any geothermal reservoir from the exploration, development or production of geothermal resources;

(5) protect the general public against injury or damage resulting from the exploration, development or production of geothermal resources;

(6) protect correlative rights against infringement resulting from the exploration, development or production of geothermal resources;

(7) regulate disposal of geothermal resources or the residue of geothermal resources or the disposal of nondomestic waste from the exploration, development or production of geothermal resources and direct the surface or subsurface disposal of such in a manner that will afford reasonable protection against contamination of all fresh water and water of present or probable future value for domestic, commercial, agricultural or stock purposes and will afford reasonable protection to human life and health and to the environment;

(8) regulate the permitting of geothermal projects, facilities and wells, and provide for public notice and comment, and opportunity for hearing;

(9) where sufficient information is available, define and, from time to time as is necessary, redefine the horizontal and vertical limits of geothermal reservoirs;

(10) permit and regulate the injection of fluids into geothermal reservoirs;

(11) require geothermal projects, facilities and wells to be drilled, installed, developed, operated or produced in a manner so as to prevent environmental injury to neighboring leases or properties and to afford reasonable protection to human life and health and to the environment;

(12) require persons applying for permits to explore, develop or produce geothermal resources to demonstrate that they have the right to produce the geothermal resources through ownership, leases, permits or other documentation;

(13) require geothermal projects, facilities and wells to be operated efficiently;

(14) require financial assurance in the form of a surety bond, cash bond or letter of credit for geothermal projects, facilities and wells, as may be applicable, in amounts to be established by the division;

(15) require owners or operators of geothermal projects, facilities or wells to keep or cause records to be maintained and submitted to the division;

(16) require abandoned geothermal projects, facilities and wells to be reclaimed, including requiring wells to be plugged in a manner to confine all fluids in the strata in which they are found and to prevent them from escaping into other strata; and

(17) govern the manner and procedures by which all hearings conducted pursuant to the Geothermal Resources Development Act shall be held.

## **Chapter 71 Section 7 Laws 2016**

SECTION 7. ACCESS TO PROPERTY.--Employees or agents of the division, on proper identification, may enter public or private property to inspect and investigate conditions in relation to the exploration, development or production of geothermal resources, to monitor compliance with the Geothermal Resources Development Act or a rule, permit or order of the division, or to examine and copy, during reasonable business hours, those records or memoranda of the business being investigated; provided, however, that any inspection or investigation on private property shall be at reasonable times and upon notice to the private landowner. Employees or agents acting under the authority of this section shall observe the business's safety, internal security and fire protection rules.

## **Chapter 71 Section 8 Laws 2016**

### SECTION 8. ADMINISTRATIVE PENALTY.--

A. If a person violates the provisions of the Geothermal Resources Development Act or the rules promulgated pursuant to that act or an order or permit issued pursuant to that act, the division may assess the person a civil penalty of two thousand five hundred dollars (\$2,500) for each violation. In the case of a continuing violation, each day of violation shall constitute a separate violation.

B. In determining the amount of the penalty, the division shall consider the person's history of previous violations of the Geothermal Resources Development Act or the Geothermal Resources Act or the rules or permits issued pursuant to those acts, the seriousness of the violation, any hazard to the health or safety of the public or the environment and the demonstrated good faith of the person.

C. The division may assess a civil penalty only after the person charged with a violation has been given an opportunity for a public hearing.

D. After the public hearing is held, or the person has failed to participate in the public hearing, the division shall issue an order requiring that any penalty imposed be paid.

E. If the person fails to pay the civil penalty as ordered by the division, the division may file a civil suit to collect the penalty in the district court of the county in which the defendant resides or in which any defendant resides if there is more than one defendant or in the district court of any county in which the violation occurred.

## **Chapter 71 Section 9 Laws 2016**

SECTION 9. APPEALS.--A person subject to a final decision of the division may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

## **Chapter 71 Section 10 Laws 2016**

SECTION 10. WATER RIGHTS OWNER--ACTION FOR IMPAIRMENT.--In addition to the appeal rights pursuant to Section 9 of the Geothermal Resources Development Act, a water rights owner may bring a de novo action in the district court in which the water rights are located for damages or injunctive relief with respect to any claimed impairment of existing water rights due to the exploration, development or production of geothermal resources pursuant to Section 4 of that act.

## **Chapter 71 Section 11 Laws 2016**

SECTION 11. TRANSFER OF ADMINISTRATION OF RULES, ORDERS AND PERMITS.--All rules, orders, permits and administrative determinations of the oil conservation division of the energy, minerals and natural resources department or oil conservation commission issued pursuant to the Geothermal Resources Conservation Act that existed prior to the effective date of the Geothermal Resources Development Act shall be administered by the energy conservation and management division of the department and shall remain in full force and effect after that date until repealed or amended, unless in conflict with, prohibited by or inconsistent with the provisions of the Geothermal Resources Development Act.

## **Chapter 71 Section 12 Laws 2016**

SECTION 12. Section 9-5A-4 NMSA 1978 (being Laws 1987, Chapter 234, Section 4, as amended) is amended to read:

"9-5A-4. DIVISIONS--DUTIES.--In addition to the duties assigned to each division of the energy, minerals and natural resources department by the secretary of energy, minerals and natural resources:

A. the administrative services division shall provide clerical, recordkeeping and administrative support to the department in the areas of personnel, budget, procurement and contracting;

B. the energy conservation and management division shall plan, administer, review, provide technical assistance, maintain records, monitor state and federal energy conservation and alternative energy technology programs and administer laws and regulations relating to geothermal resources;

C. the forestry division shall enforce and administer laws and regulations relating to forestry on lands within the state;

D. the mining and minerals division shall enforce and administer laws and regulations relating to mine safety, coal surface mine reclamation and abandoned mine lands reclamation;

E. the oil conservation division shall administer laws and regulations relating to oil and gas resources, except those laws specifically administered by another authority; and

F. the state parks division shall develop, maintain, manage and supervise all state parks and state-owned or state-leased recreation areas."

## **Chapter 71 Section 13 Laws 2016**

SECTION 13. TEMPORARY PROVISION--TRANSFER OF APPROPRIATIONS, MONEY AND RECORDS.--On the effective date of this act, any appropriations, money and records of the oil conservation commission or the oil conservation division of the energy, minerals and natural resources department dedicated to its powers and duties under the Geothermal Resources Conservation Act are transferred to the energy conservation and management division of that department.

## **Chapter 71 Section 14 Laws 2016**

SECTION 14. REPEAL.--Sections 71-5-1 through 71-5-24 NMSA 1978 (being Laws 1975, Chapter 272, Sections 1 and 2, Laws 2003, Chapter 16, Section 2, Laws 1975, Chapter 272, Sections 3 through 17, Laws 1979, Chapter 326, Sections 1 through 5, Laws 1975, Chapter 272, Sections 18 through 21, Laws 2012, Chapter 50, Section 2, Laws 1975, Chapter 272, Section 22, Laws 1981, Chapter 362, Section 2 and Laws 1975, Chapter 272, Section 24, as amended) are repealed.

## **Chapter 71 Section 15 Laws 2016**

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 289, aa

Approved March 8, 2016

# **LAWS 2016, CHAPTER 72**

AN ACT

RELATING TO PROPERTY; ENACTING THE UNIFORM TRUST DECANTING ACT;  
REVISING THE STATUTORY RULE AGAINST PERPETUITIES AS IT AFFECTS  
PROPERTY INTERESTS, INCLUDING REAL PROPERTY INTERESTS, HELD IN  
TRUST.

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

UNIFORM TRUST DECANTING ACT

## **Chapter 72 Section 1-101 Laws 2016**

SECTION 1-101. SHORT TITLE.--Sections 1-101 through 1-129 of this act may be cited as the "Uniform Trust Decanting Act".

## **Chapter 72 Section 1-102 Laws 2016**

SECTION 1-102. DEFINITIONS.--As used in the Uniform Trust Decanting Act:

A. "appointive property" means the property or property interest subject to a power of appointment;

B. "ascertainable standard" means a standard relating to an individual's health, education, support or maintenance within the meaning of 26 U.S.C. Section 2041(b)(1)(A), as amended, or 26 U.S.C. Section 2514(c)(1), as amended, and any applicable regulations;

C. "authorized fiduciary" means:

(1) a trustee or other fiduciary, other than a settlor, that has discretion to distribute, or direct a trustee to distribute, part or all of the principal of the first trust to one or more current beneficiaries;

(2) a special fiduciary appointed under Section 1-109 of the Uniform Trust Decanting Act; or

(3) a special-needs fiduciary under Section 1-113 of the Uniform Trust Decanting Act;

D. "beneficiary" means a person that:

(1) has a present or future, vested or contingent, beneficial interest in a trust;

(2) holds a power of appointment over trust property; or



(3) is an identified charitable organization that will or may receive distributions under the terms of the trust;

E. "charitable interest" means an interest in a trust that:

(1) is held by an identified charitable organization and makes the organization a qualified beneficiary;

(2) benefits only charitable organizations and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary; or

(3) is held solely for charitable purposes and, if the interest were held by an identified charitable organization, would make the organization a qualified beneficiary;

F. "charitable organization" means:

(1) a person, other than an individual, organized and operated exclusively for charitable purposes; or

(2) a government or governmental subdivision, agency or instrumentality, to the extent it holds funds exclusively for a charitable purpose;

G. "charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, a municipal or other governmental purpose or another purpose the achievement of which is beneficial to the community;

H. "court" means the district court;

I. "current beneficiary" means a beneficiary that, on the date the beneficiary's qualification is determined, is a distributee or permissible distributee of trust income or principal. "Current beneficiary":

(1) includes the holder of a presently exercisable general power of appointment; and

(2) does not include a person that is a beneficiary only because the person holds any other power of appointment;

J. "decanting power" or "the decanting power" means the power of an authorized fiduciary under the Uniform Trust Decanting Act to distribute property of a first trust to one or more second trusts or to modify the terms of the first trust;

K. "expanded distributive discretion" means a discretionary power of distribution that is not limited to an ascertainable standard or a reasonably definite standard;

L. "first trust" means a trust over which an authorized fiduciary may exercise the decanting power;

M. "first-trust instrument" means the trust instrument for a first trust;

N. "general power of appointment" means a power of appointment exercisable in favor of a powerholder, the powerholder's estate, a creditor of the powerholder or a creditor of the powerholder's estate;

O. "jurisdiction", with respect to a geographic area, includes a state or country;

P. "person" means an individual; an estate; a business or nonprofit entity; a public corporation; a government or governmental subdivision, agency or instrumentality; or another legal entity;

Q. "power of appointment" means a power that enables a powerholder acting in a nonfiduciary capacity to designate a recipient of an ownership interest in or another power of appointment over the appointive property. "Power of appointment" does not include a power of attorney;

R. "powerholder" means a person in which a donor creates a power of appointment;

S. "presently exercisable power of appointment" means a power of appointment exercisable by the powerholder at the relevant time. "Presently exercisable power of appointment":

(1) includes a power of appointment exercisable only after the occurrence of a specified event, the satisfaction of an ascertainable standard or the passage of a specified time only after:

(a) the occurrence of the specified event;

(b) the satisfaction of the ascertainable standard; or

(c) the passage of the specified time; and

(2) does not include a power exercisable only at the powerholder's death;

T. "qualified beneficiary" means a beneficiary that on the date the beneficiary's qualification is determined:

(1) is a distributee or permissible distributee of trust income or principal;

(2) would be a distributee or permissible distributee of trust income or principal if the interests of the distributees described in Paragraph (1) of this subsection terminated on that date without causing the trust to terminate; or

(3) would be a distributee or permissible distributee of trust income or principal if the trust terminated on that date;

U. "reasonably definite standard" means a clearly measurable standard under which a holder of a power of distribution is legally accountable within the meaning of 26 U.S.C. Section 674(b)(5)(A), as amended, and any applicable regulations;

V. "record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

W. "second trust" means:

(1) a first trust after modification under the Uniform Trust Decanting Act; or

(2) a trust to which a distribution of property from a first trust is or may be made under the Uniform Trust Decanting Act;

X. "second-trust instrument" means the trust instrument for a second trust;

Y. "settlor", except as otherwise provided in Section 1-125 of the Uniform Trust Decanting Act, means a person, including a testator, that creates or contributes property to a trust. If more than one person creates or contributes property to a trust, each person is a settlor of the portion of the trust property attributable to the person's contribution except to the extent that another person has power to revoke or withdraw that portion;

Z. "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic symbol, sound or process;

AA. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession

subject to the jurisdiction of the United States. "State" includes an Indian tribe, pueblo, nation or band located within the United States and recognized by federal law or formally acknowledged by a state of the United States;

BB. "terms of the trust" means the manifestation of the settlor's intent regarding a trust's provisions as expressed in the trust instrument, as may be established by other evidence that would be admissible in a judicial proceeding or as may be established by court order or nonjudicial settlement agreement; and

CC. "trust instrument" means a record executed by the settlor to create a trust or by any person to create a second trust that contains some or all of the terms of the trust, including any amendments.

## **Chapter 72 Section 1-103 Laws 2016**

### SECTION 1-103. SCOPE.--

A. Except as otherwise provided in Subsections B and C of this section, the Uniform Trust Decanting Act applies to an express trust that is irrevocable or revocable by the settlor only with the consent of the trustee or a person holding an adverse interest.

B. The Uniform Trust Decanting Act does not apply to a trust held solely for charitable purposes.

C. Subject to Section 1-115 of the Uniform Trust Decanting Act, a trust instrument may restrict or prohibit exercise of the decanting power.

D. The Uniform Trust Decanting Act does not limit the power of a trustee, powerholder or other person to distribute or appoint property in further trust or to modify a trust under the trust instrument, New Mexico law other than the Uniform Trust Decanting Act, common law, a court order or a nonjudicial-settlement agreement.

E. The Uniform Trust Decanting Act does not affect the ability of a settlor to provide in a trust instrument for the distribution of the trust property or appointment in further trust of the trust property or for modification of the trust instrument.

## **Chapter 72 Section 1-104 Laws 2016**

### SECTION 1-104. FIDUCIARY DUTY.--

A. In exercising the decanting power, an authorized fiduciary shall act in accordance with its fiduciary duties, including the duty to act in accordance with the purposes of the first trust.

B. The Uniform Trust Decanting Act does not create or imply a duty to exercise the decanting power or to inform beneficiaries about the applicability of the Uniform Trust Decanting Act.

C. Except as otherwise provided in a first-trust instrument, the terms of the first trust are, for purposes of the Uniform Trust Decanting Act, Section 46A-8-801 NMSA 1978 and Subsection A of Section 46A-8-802 NMSA 1978, deemed to include the decanting power.

## **Chapter 72 Section 1-105 Laws 2016**

### SECTION 1-105. APPLICATION--GOVERNING LAW.--

A. The Uniform Trust Decanting Act applies to a trust that:

(1) has its principal place of administration in New Mexico, including a trust whose principal place of administration has been changed to New Mexico; or

(2) provides by its trust instrument that it is governed by New Mexico law or is governed by New Mexico law for the purpose of:

(a) administration, including administration of a trust whose governing law for purposes of administration has been changed to New Mexico law;

(b) construction of terms of the trust; or

(c) determining the meaning or effect of terms of the trust.

B. Except as otherwise provided in the Uniform Trust Decanting Act, on and after January 1, 2017:

(1) the Uniform Trust Decanting Act applies to a trust created before, on or after January 1, 2017;

(2) the Uniform Trust Decanting Act applies to a judicial proceeding concerning a trust commenced on or after January 1, 2017;

(3) the Uniform Trust Decanting Act applies to a judicial proceeding concerning a trust commenced before January 1, 2017 unless the court finds that application of a particular provision of the Uniform Trust Decanting Act would interfere substantially with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision of the Uniform Trust Decanting Act does not apply and the superseded law applies;

(4) a rule of construction or presumption provided in the Uniform Trust Decanting Act applies to a trust instrument executed before January 1, 2017 unless there is a clear indication of a contrary intent in the terms of the instrument; and

(5) except as otherwise provided in Paragraphs (1) through (4) of this subsection, an action done before January 1, 2017 is not affected by the Uniform Trust Decanting Act.

C. If a right is acquired, extinguished or barred on the expiration of a prescribed period that commenced under New Mexico law other than the Uniform Trust Decanting Act before January 1, 2017, the law continues to apply to the right.

## **Chapter 72 Section 1-106 Laws 2016**

SECTION 1-106. REASONABLE RELIANCE.--A trustee or other person that reasonably relies on the validity of a distribution of part or all of the property of a trust to another trust, or a modification of a trust under the Uniform Trust Decanting Act, New Mexico law other than the Uniform Trust Decanting Act or the law of another jurisdiction, is not liable to any person for any action or failure to act as a result of the reliance.

## **Chapter 72 Section 1-107 Laws 2016**

### SECTION 1-107. NOTICE--EXERCISE OF DECANTING POWER.--

A. In this section, a notice period begins on the day notice is given under Subsection C of this section and ends fifty-nine days after the day notice is given.

B. Except as otherwise provided in the Uniform Trust Decanting Act, an authorized fiduciary may exercise the decanting power without the consent of any person and without court approval.

C. Except as otherwise provided in Subsection F of this section, an authorized fiduciary shall give notice in a record of the intended exercise of the decanting power not later than sixty days before the exercise to:

- (1) each settlor of the first trust, if living or then in existence;
- (2) each qualified beneficiary of the first trust;
- (3) each holder of a presently exercisable power of appointment over any part or all of the first trust;
- (4) each person that currently has the right to remove or replace the authorized fiduciary;
- (5) each other fiduciary of the first trust;

(6) each fiduciary of the second trust; and

(7) the attorney general, if Subsection B of Section 1-114 of the Uniform Trust Decanting Act applies.

D. An authorized fiduciary is not required to give notice under Subsection C of this section to a person that is not known to the fiduciary or is known to the fiduciary but cannot be located by the fiduciary after reasonable diligence.

E. A notice given under Subsection C of this section shall:

(1) specify the manner in which the authorized fiduciary intends to exercise the decanting power;

(2) specify the proposed effective date for exercise of the power;

(3) include a copy of the first-trust instrument; and

(4) include a copy of all second-trust instruments.

F. The decanting power may be exercised before expiration of the notice period specified in Subsection A of this section if all persons entitled to receive notice waive the period in a signed record.

G. The receipt of notice, waiver of the notice period or expiration of the notice period does not affect the right of a person to file an application under Section 1-109 of the Uniform Trust Decanting Act asserting that:

(1) an attempted exercise of the decanting power is ineffective because it did not comply with the Uniform Trust Decanting Act or was an abuse of discretion or breach of fiduciary duty; or

(2) Section 1-122 of the Uniform Trust Decanting Act applies to the exercise of the decanting power.

H. An exercise of the decanting power is not ineffective because of the failure to give notice to one or more persons under Subsection C of this section if the authorized fiduciary acted with reasonable care to comply with that subsection.

## **Chapter 72 Section 1-108 Laws 2016**

### **SECTION 1-108. REPRESENTATION.--**

A. Notice to a person with authority to represent and bind another person under a first-trust instrument or the Uniform Trust Code has the same effect as notice given directly to the person represented.

B. Consent of or waiver by a person with authority to represent and bind another person under a first-trust instrument or the Uniform Trust Code is binding on the person represented unless the person represented objects to the representation before the consent or waiver otherwise would become effective.

C. A person with authority to represent and bind another person under a first-trust instrument or the Uniform Trust Code may file an application under Section 1-109 of the Uniform Trust Decanting Act on behalf of the person represented.

D. A settlor shall not represent or bind a beneficiary under the Uniform Trust Decanting Act.

## **Chapter 72 Section 1-109 Laws 2016**

### **SECTION 1-109. COURT INVOLVEMENT.--**

A. On application of an authorized fiduciary, a person entitled to notice under Subsection C of Section 1-107 of the Uniform Trust Decanting Act, a beneficiary or, with respect to a charitable interest, the attorney general or other person that has standing to enforce the charitable interest, the court, may:

(1) provide instructions to the authorized fiduciary regarding whether a proposed exercise of the decanting power is permitted under the Uniform Trust Decanting Act and consistent with the fiduciary duties of the authorized fiduciary;

(2) appoint a special fiduciary and authorize the special fiduciary to determine whether the decanting power should be exercised under the Uniform Trust Decanting Act and to exercise the decanting power;

(3) approve an exercise of the decanting power;

(4) determine that a proposed or attempted exercise of the decanting power is ineffective because:

(a) after applying Section 1-122 of the Uniform Trust Decanting Act, the proposed or attempted exercise does not or did not comply with the Uniform Trust Decanting Act; or

(b) the proposed or attempted exercise would be or was an abuse of the fiduciary's discretion or a breach of fiduciary duty;

(5) determine the extent to which Section 1-122 of the Uniform Trust Decanting Act applies to a prior exercise of the decanting power;



(6) provide instructions to the trustee regarding the application of Section 1-122 of the Uniform Trust Decanting Act to a prior exercise of the decanting power; or

(7) order other relief to carry out the purposes of the Uniform Trust Decanting Act.

B. On application of an authorized fiduciary, the court may approve:

(1) an increase in the fiduciary's compensation under Section 1-116 of the Uniform Trust Decanting Act; or

(2) a modification under Section 1-118 of the Uniform Trust Decanting Act of a provision granting a person the right to remove or replace the fiduciary.

## **Chapter 72 Section 1-110 Laws 2016**

SECTION 1-110. FORMALITIES.--An exercise of the decanting power shall be made in a record signed by an authorized fiduciary. The signed record shall, directly or by reference to the notice required by Section 1-107 of the Uniform Trust Decanting Act, identify the first trust and the second trust or trusts and state the property of the first trust being distributed to each second trust and the property, if any, that remains in the first trust.

## **Chapter 72 Section 1-111 Laws 2016**

SECTION 1-111. DECANTING POWER UNDER EXPANDED DISTRIBUTIVE DISCRETION.--

A. As used in this section:

(1) "noncontingent right" means a right that is not subject to the exercise of discretion or the occurrence of a specified event that is not certain to occur. "Noncontingent right" does not include a right held by a beneficiary if any person has discretion to distribute property subject to the right to any person other than the beneficiary or the beneficiary's estate;

(2) "presumptive remainder beneficiary" means a qualified beneficiary other than a current beneficiary;

(3) "successor beneficiary" means a beneficiary that is not a qualified beneficiary on the date the beneficiary's qualification is determined. "Successor beneficiary" does not include a person that is a beneficiary only because the person holds a nongeneral power of appointment; and

(4) "vested interest" means:

(a) a right to a mandatory distribution that is a noncontingent right as of the date of the exercise of the decanting power;

(b) a current and noncontingent right, annually or more frequently, to a mandatory distribution of income, a specified dollar amount or a percentage of value of some or all of the trust property;

(c) a current and noncontingent right, annually or more frequently, to withdraw income, a specified dollar amount or a percentage of value of some or all of the trust property;

(d) a presently exercisable general power of appointment; or

(e) a right to receive an ascertainable part of the trust property on the trust's termination that is not subject to the exercise of discretion or to the occurrence of a specified event that is not certain to occur.

B. Subject to Subsection C of this section and Section 1-114 of the Uniform Trust Decanting Act, an authorized fiduciary that has expanded distributive discretion over the principal of a first trust for the benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

C. Subject to Section 1-113 of the Uniform Trust Decanting Act, in an exercise of the decanting power under this section, a second trust shall not:

(1) include as a current beneficiary a person that is not a current beneficiary of the first trust, except as otherwise provided in Subsection D of this section;

(2) include as a presumptive remainder beneficiary or successor beneficiary a person that is not a current beneficiary, presumptive remainder beneficiary or successor beneficiary of the first trust, except as otherwise provided in Subsection D of this section; or

(3) reduce or eliminate a vested interest.

D. Subject to Paragraph (3) of Subsection C of this section and Section 1-114 of the Uniform Trust Decanting Act, in an exercise of the decanting power under this section, a second trust may be a trust created or administered under the law of any jurisdiction and may:

(1) retain a power of appointment granted in the first trust;

(2) omit a power of appointment granted in the first trust, other than a presently exercisable general power of appointment;

(3) create or modify a power of appointment if the powerholder is a current beneficiary of the first trust and the authorized fiduciary has expanded distributive discretion to distribute principal to the beneficiary; and

(4) create or modify a power of appointment if the powerholder is a presumptive remainder beneficiary or successor beneficiary of the first trust, but the exercise of the power may take effect only after the powerholder becomes, or would have become if then living, a current beneficiary.

E. A power of appointment described in Paragraphs (1) through (4) of Subsection D of this section may be general or nongeneral. The class of permissible appointees in favor of which the power may be exercised may be broader than or different from the beneficiaries of the first trust.

F. If an authorized fiduciary has expanded distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power under this section over that part of the principal over which the authorized fiduciary has expanded distributive discretion.

## **Chapter 72 Section 1-112 Laws 2016**

### **SECTION 1-112. DECANTING POWER UNDER LIMITED DISTRIBUTIVE DISCRETION.--**

A. As used in this section, "limited distributive discretion" means a discretionary power of distribution that is limited to an ascertainable standard or a reasonably definite standard.

B. An authorized fiduciary that has limited distributive discretion over the principal of the first trust for benefit of one or more current beneficiaries may exercise the decanting power over the principal of the first trust.

C. Under this section and subject to Section 1-114 of the Uniform Trust Decanting Act, a second trust may be created or administered under the law of any jurisdiction. Under this section, the second trusts, in the aggregate, shall grant each beneficiary of the first trust beneficial interests that are substantially similar to the beneficial interests of the beneficiary in the first trust.

D. A power to make a distribution under a second trust for the benefit of a beneficiary who is an individual is substantially similar to a power under the first trust to make a distribution directly to the beneficiary. A distribution is for the benefit of a beneficiary if:

(1) the distribution is applied for the benefit of the beneficiary;

(2) the beneficiary is under a legal disability or the trustee reasonably believes the beneficiary is incapacitated and the distribution is made as permitted under the Uniform Trust Code; or

(3) the distribution is made as permitted under the terms of the first-trust instrument and the second-trust instrument for the benefit of the beneficiary.

E. If an authorized fiduciary has limited distributive discretion over part but not all of the principal of a first trust, the fiduciary may exercise the decanting power provided by this section over that part of the principal over which the authorized fiduciary has limited distributive discretion.

## **Chapter 72 Section 1-113 Laws 2016**

### **SECTION 1-113. TRUST FOR BENEFICIARY WITH DISABILITY.--**

A. As used in this section:

(1) "beneficiary with a disability" means a beneficiary of a first trust who the special-needs fiduciary believes may qualify for governmental benefits based on disability, whether or not the beneficiary currently receives those benefits or is an individual who has been adjudicated incapacitated;

(2) "governmental benefits" means financial aid or services from a state, federal or other type of public agency;

(3) "special-needs fiduciary" means, with respect to a trust that has a beneficiary with a disability:

(a) a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the principal of a first trust to one or more current beneficiaries;

(b) if no trustee or fiduciary has discretion under Subparagraph (a) of this paragraph, a trustee or other fiduciary, other than a settlor, that has discretion to distribute part or all of the income of the first trust to one or more current beneficiaries; or

(c) if no trustee or fiduciary has discretion under Subparagraphs (a) and (b) of this paragraph, a trustee or other fiduciary, other than a settlor, that is required to distribute part or all of the income or principal of the first trust to one or more current beneficiaries; and

(4) "special-needs trust" means a trust that the trustee believes would not be considered a resource for purposes of determining whether a beneficiary with a disability is eligible for governmental benefits.

B. A special-needs fiduciary may exercise the decanting power provided by Section 1-111 of the Uniform Trust Decanting Act over the principal of a first trust as if the fiduciary had authority to distribute principal to a beneficiary with a disability subject to expanded distributive discretion if:

(1) a second trust is a special-needs trust that benefits the beneficiary with a disability; and

(2) the special-needs fiduciary determines that exercise of the decanting power will further the purposes of the first trust.

C. In an exercise of the decanting power provided by this section, the following rules apply:

(1) notwithstanding Paragraph (2) of Subsection C of Section 1-111 of the Uniform Trust Decanting Act, the interest in the second trust of a beneficiary with a disability may:

(a) be a pooled trust as defined by medicaid law for the benefit of the beneficiary with a disability under 42 U.S.C. Section 1396p(d)(4)(C), as amended; or

(b) contain payback provisions complying with reimbursement requirements of medicaid law under 42 U.S.C. Section 1396p(d)(4)(A), as amended;

(2) Paragraph (3) of Subsection C of Section 1-111 of the Uniform Trust Decanting Act does not apply to the interests of the beneficiary with a disability; and

(3) except as affected by any change to the interests of the beneficiary with a disability, the second trust, or if there are two or more second trusts, the second trusts in the aggregate, shall grant each other beneficiary of the first trust beneficial interests in the second trusts that are substantially similar to the beneficiary's beneficial interests in the first trust.

## **Chapter 72 Section 1-114 Laws 2016**

### **SECTION 1-114. PROTECTION OF CHARITABLE INTEREST.--**

A. As used in this section:

(1) "determinable charitable interest" means a charitable interest that is a right to a mandatory distribution currently, periodically, on the occurrence of a specified event or after the passage of a specified time and that is unconditional or will be held solely for charitable purposes; and

(2) "unconditional" means not subject to the occurrence of a specified event that is not certain to occur, other than a requirement in a trust instrument that a charitable organization be in existence or qualify under a particular provision of the United States Internal Revenue Code of 1986, as amended, on the date of the distribution if the charitable organization meets the requirement on the date of determination.

B. If a first trust contains a determinable charitable interest, the attorney general has the rights of a qualified beneficiary and may represent and bind the charitable interest.

C. If a first trust contains a charitable interest, the second trust or trusts shall not:

(1) diminish the charitable interest;

(2) diminish the interest of an identified charitable organization that holds the charitable interest;

(3) alter any charitable purpose stated in the first-trust instrument;

or

(4) alter any condition or restriction related to the charitable interest.

D. If there are two or more second trusts, the second trusts shall be treated as one trust for purposes of determining whether the exercise of the decanting power diminishes the charitable interest or diminishes the interest of an identified charitable organization for purposes of Subsection C of this section.

E. If a first trust contains a determinable charitable interest, the second trust or trusts that include a charitable interest pursuant to Subsection C of this section shall be administered under New Mexico law unless:

(1) the attorney general, after receiving notice under Section 1-107 of the Uniform Trust Decanting Act, fails to object in a signed record delivered to the authorized fiduciary within the notice period;

(2) the attorney general consents in a signed record to the second trust or trusts being administered under the law of another jurisdiction; or

(3) the court approves the exercise of the decanting power.

F. The Uniform Trust Decanting Act does not limit the powers and duties of the attorney general under New Mexico law other than that act.

## **Chapter 72 Section 1-115 Laws 2016**

### SECTION 1-115. TRUST LIMITATION ON DECANTING.--

A. An authorized fiduciary shall not exercise the decanting power to the extent that the first-trust instrument expressly prohibits exercise of:

(1) the decanting power; or

(2) a power granted by state law to the fiduciary to distribute part or all of the principal of the trust to another trust.

B. Exercise of the decanting power is subject to any restriction in the first-trust instrument that expressly applies to exercise of:

(1) the decanting power; or

(2) a power granted by state law to a fiduciary to distribute part or all of the principal of the trust to another trust or to modify the trust.

C. A general prohibition of the amendment or revocation of a first trust, a spendthrift clause or a clause restraining the voluntary or involuntary transfer of a beneficiary's interest does not preclude exercise of the decanting power.

D. Subject to Subsections A and B of this section, an authorized fiduciary may exercise the decanting power provided by the Uniform Trust Decanting Act even if the first-trust instrument permits the authorized fiduciary or another person to modify the first-trust instrument or to distribute part or all of the principal of the first trust to another trust.

E. If a first-trust instrument contains an express prohibition described in Subsection A of this section or an express restriction described in Subsection B of this section, the provision shall be included in the second-trust instrument.

## **Chapter 72 Section 1-116 Laws 2016**

### SECTION 1-116. CHANGE IN COMPENSATION.--

A. If a first-trust instrument specifies an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the specified compensation unless:

(1) all qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

B. If a first-trust instrument does not specify an authorized fiduciary's compensation, the fiduciary shall not exercise the decanting power to increase the fiduciary's compensation above the compensation permitted by the Uniform Trust Code unless:

(1) all qualified beneficiaries of the second trust consent to the increase in a signed record; or

(2) the increase is approved by the court.

C. A change in an authorized fiduciary's compensation that is incidental to other changes made by the exercise of the decanting power is not an increase in the fiduciary's compensation for purposes of Subsections A and B of this section.

## **Chapter 72 Section 1-117 Laws 2016**

### **SECTION 1-117. RELIEF FROM LIABILITY AND INDEMNIFICATION.--**

A. Except as otherwise provided in this section, a second-trust instrument shall not relieve an authorized fiduciary from liability for breach of trust to a greater extent than the first-trust instrument.

B. A second-trust instrument may provide for indemnification of an authorized fiduciary of the first trust or another person acting in a fiduciary capacity under the first trust for any liability or claim that would have been payable from the first trust if the decanting power had not been exercised.

C. A second-trust instrument shall not reduce fiduciary liability in the aggregate.

D. Subject to Subsection C of this section, a second-trust instrument may divide and reallocate fiduciary powers among fiduciaries, including one or more trustees, distribution advisors, investment advisors, trust protectors or other persons, and relieve a fiduciary from liability for an act or failure to act of another fiduciary as permitted by New Mexico law other than the Uniform Trust Decanting Act.

## **Chapter 72 Section 1-118 Laws 2016**

**SECTION 1-118. REMOVAL OR REPLACEMENT OF AUTHORIZED FIDUCIARY.--**An authorized fiduciary shall not exercise the decanting power to modify a



provision in a first-trust instrument granting another person power to remove or replace the fiduciary unless:

A. the person holding the power consents to the modification in a signed record and the modification applies only to the person;

B. the person holding the power and the qualified beneficiaries of the second trust consent to the modification in a signed record and the modification grants a substantially similar power to another person; or

C. the court approves the modification and the modification grants a substantially similar power to another person.

## **Chapter 72 Section 1-119 Laws 2016**

### **SECTION 1-119. TAX-RELATED LIMITATIONS.--**

A. As used in this section:

(1) "grantor trust" means a trust as to which a settlor of a first trust is considered the owner under 26 U.S.C. Sections 671 through 677, as amended, or 26 U.S.C. Section 679, as amended;

(2) "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

(3) "nongrantor trust" means a trust that is not a grantor trust; and

(4) "qualified benefits property" means property subject to the minimum distribution requirements of 26 U.S.C. Section 401(a)(9), as amended, and any applicable regulations or subject to any similar requirements that refer to 26 U.S.C. Section 401(a)(9), as amended or the regulations.

B. An exercise of the decanting power is subject to the following limitations:

(1) if a first trust contains property that qualified, or would have qualified but for provisions of the Uniform Trust Decanting Act other than those in this section, for a marital deduction for purposes of the gift or estate tax under the Internal Revenue Code or a state gift, estate or inheritance tax, the second-trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified;

(2) if the first trust contains property that qualified, or would have qualified but for provisions of the Uniform Trust Decanting Act other than those in this section, for a charitable deduction for purposes of the income, gift or estate tax under the Internal Revenue Code or a state income, gift, estate or inheritance tax, the second-trust instrument shall not include or omit any term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying for the deduction, or would have reduced the amount of the deduction, under the same provisions of the Internal Revenue Code or state law under which the transfer qualified;

(3) if the first trust contains property that qualified, or would have qualified but for provisions of the Uniform Trust Decanting Act other than those in this section, for the exclusion from the gift tax described in 26 U.S.C. Section 2503(b), as amended, the second-trust instrument shall not include or omit a term that, if included in or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. Section 2503(b), as amended. If the first trust contains property that qualified, or would have qualified but for provisions of the Uniform Trust Decanting Act other than those in this section, for the exclusion from the gift tax described in 26 U.S.C. Section 2503(b), as amended, by application of 26 U.S.C. Section 2503(c), as amended, the second-trust instrument shall not include or omit a term that, if included or omitted from the trust instrument for the trust to which the property was transferred, would have prevented the transfer from qualifying under 26 U.S.C. Section 2503(c), as amended;

(4) if the property of the first trust includes shares of stock in an S corporation, as defined in 26 U.S.C. Section 1361, as amended, and the first trust is, or, but for provisions of the Uniform Trust Decanting Act other than those in this section, would be, a permitted shareholder under any provision of 26 U.S.C. Section 1361, as amended, an authorized fiduciary may exercise the power with respect to part or all of the S-corporation stock only if any second trust receiving the stock is a permitted shareholder under 26 U.S.C. Section 1361(c)(2), as amended. If the property of the first trust includes shares of stock in an S corporation and the first trust is, or, but for provisions of the Uniform Trust Decanting Act other than those in this section, would be, a qualified subchapter-S trust within the meaning of 26 U.S.C. Section 1361(d), as amended, the second-trust instrument shall not include or omit a term that prevents the second trust from qualifying as a qualified subchapter-S trust;

(5) if the first trust contains property that qualified, or, but for provisions of the Uniform Trust Decanting Act other than those in this section, would have qualified, for a zero inclusion ratio for purposes of the generation-skipping transfer tax under 26 U.S.C. Section 2642(c), as amended, the second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the transfer to the first trust from qualifying for a zero inclusion ratio under 26 U.S.C. Section 2642(c), as amended;

(6) if the first trust is directly or indirectly the beneficiary of qualified benefits property, the second-trust instrument shall not include or omit any term that, if included in or omitted from the first-trust instrument, would have increased the minimum distributions required with respect to the qualified benefits property under 26 U.S.C. Section 401(a)(9), as amended, and any applicable regulations or any similar requirements that refer to 26 U.S.C. Section 401(a)(9), as amended, or the regulations. If an attempted exercise of the decanting power violates this paragraph, the trustee is deemed to have held the qualified benefits property and any reinvested distributions of the property as a separate share from the date of the exercise of the power, and Section 1-122 of the Uniform Trust Decanting Act applies to the separate share;

(7) if the first trust qualifies as a grantor trust because of the application of 26 U.S.C. Section 672(f)(2)(A), as amended, the second trust shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented the first trust from qualifying under 26 U.S.C. Section 672(f)(2)(A), as amended;

(8) as used in this paragraph, "tax benefit" means a federal or state tax deduction, exemption, exclusion or other benefit not otherwise listed in this section, except for a benefit arising from being a grantor trust. Subject to Paragraph (9) of this subsection, a second-trust instrument shall not include or omit a term that, if included in or omitted from the first-trust instrument, would have prevented qualification for a tax benefit if:

(a) the first-trust instrument expressly indicates an intent to qualify for the benefit or the first-trust instrument clearly is designed to enable the first trust to qualify for the benefit; and

(b) the transfer of property held by the first trust or the first trust qualified, or, but for provisions of the Uniform Trust Decanting Act other than those in this section, would have qualified, for the tax benefit;

(9) subject to Paragraph (4) of this subsection:

(a) except as otherwise provided in Paragraph (7) of this subsection, the second trust may be a nongrantor trust, even if the first trust is a grantor trust; and

(b) except as otherwise provided in Paragraph (10) of this subsection, the second trust may be a grantor trust, even if the first trust is a nongrantor trust; and

(10) an authorized fiduciary shall not exercise the decanting power if a settlor objects in a signed record delivered to the fiduciary within the notice period and:

(a) the first trust and a second trust are both grantor trusts, in whole or in part, the first trust grants the settlor or another person the power to cause the second trust to cease to be a grantor trust and the second trust does not grant an equivalent power to the settlor or other person; or

(b) the first trust is a nongrantor trust and a second trust is a grantor trust, in whole or in part, with respect to the settlor, unless: 1) the settlor has the power at all times to cause the second trust to cease to be a grantor trust; or 2) the first-trust instrument contains a provision granting the settlor or another person a power that would cause the first trust to cease to be a grantor trust and the second-trust instrument contains the same provision.

## **Chapter 72 Section 1-120 Laws 2016**

### SECTION 1-120. DURATION OF SECOND TRUST.--

A. Subject to Subsection B of this section, a second trust may have a duration that is the same as or different from the duration of the first trust.

B. To the extent that property of a second trust is attributable to property of the first trust, the property of the second trust is subject to any maximum perpetuity, accumulation or suspension-of-the-power-of-alienation rules that apply to property of the first trust.

## **Chapter 72 Section 1-121 Laws 2016**

SECTION 1-121. NEED TO DISTRIBUTE NOT REQUIRED.--An authorized fiduciary may exercise the decanting power regardless of whether under the first trust's discretionary distribution standard the fiduciary would have made, or could have been compelled to make, a discretionary distribution of principal at the time of the exercise.

## **Chapter 72 Section 1-122 Laws 2016**

### SECTION 1-122. SAVING PROVISION.--

A. If exercise of the decanting power would be effective under the Uniform Trust Decanting Act except that the second-trust instrument in part does not comply with the Uniform Trust Decanting Act, the exercise of the power is effective and the following rules apply with respect to the principal of the second trust attributable to the exercise of the power:

(1) a provision in the second-trust instrument that is not permitted under the Uniform Trust Decanting Act is void to the extent necessary to comply with the Uniform Trust Decanting Act; and

(2) a provision required by the Uniform Trust Decanting Act to be in the second-trust instrument that is not contained in the instrument is deemed to be included in the instrument to the extent necessary to comply with the Uniform Trust Decanting Act.

B. If a trustee or other fiduciary of a second trust determines that Subsection A of this section applies to a prior exercise of the decanting power, the fiduciary shall take corrective action consistent with the fiduciary's duties.

## **Chapter 72 Section 1-123 Laws 2016**

### SECTION 1-123. TRUST FOR CARE OF ANIMAL.--

A. As used in this section:

(1) "animal trust" means a trust or an interest in a trust created to provide for the care of one or more animals; and

(2) "protector" means a person appointed in an animal trust to enforce the trust on behalf of the animal or, if no such person is appointed in the trust, a person appointed by the court for that purpose.

B. The decanting power may be exercised over an animal trust that has a protector to the extent that the trust could be decanted under the Uniform Trust Decanting Act as if each animal that benefits from the trust were an individual if the protector consents in a signed record to the exercise of the power.

C. A protector for an animal has the rights under the Uniform Trust Decanting Act of a qualified beneficiary.

D. Notwithstanding any other provision of the Uniform Trust Decanting Act, if a first trust is an animal trust, in an exercise of the decanting power, the second trust shall provide that trust property may be applied only to its intended purpose for the period the first trust benefited the animal.

## **Chapter 72 Section 1-124 Laws 2016**

SECTION 1-124. TERMS OF SECOND TRUST.--A reference in the Uniform Trust Code to a trust instrument or terms of the trust includes a second-trust instrument and the terms of the second trust.

## **Chapter 72 Section 1-125 Laws 2016**

### SECTION 1-125. SETTLOR.--

A. For purposes of New Mexico law other than the Uniform Trust Decanting Act and subject to Subsection B of this section, a settlor of a first trust is deemed to be the settlor of the second trust with respect to the portion of the principal of the first trust subject to the exercise of the decanting power.

B. In determining settlor intent with respect to a second trust, the intent of a settlor of the first trust, a settlor of the second trust and the authorized fiduciary may be considered.

## **Chapter 72 Section 1-126 Laws 2016**

### **SECTION 1-126. LATER-DISCOVERED PROPERTY.--**

A. Except as otherwise provided in Subsection C of this section, if exercise of the decanting power was intended to distribute all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust and property paid to or acquired by the first trust after the exercise of the power is part of the trust estate of the second trust or trusts.

B. Except as otherwise provided in Subsection C of this section, if exercise of the decanting power was intended to distribute less than all the principal of the first trust to one or more second trusts, later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power remains part of the trust estate of the first trust.

C. An authorized fiduciary may provide in an exercise of the decanting power, or by the terms of a second trust, for disposition of later-discovered property belonging to the first trust or property paid to or acquired by the first trust after exercise of the power.

## **Chapter 72 Section 1-127 Laws 2016**

SECTION 1-127. OBLIGATIONS.--A debt, liability or other obligation enforceable against property of a first trust is enforceable to the same extent against the property when held by the second trust after exercise of the decanting power.

## **Chapter 72 Section 1-128 Laws 2016**

SECTION 1-128. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Trust Decanting 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 72 Section 1-129 Laws 2016**

SECTION 1-129. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.--The Uniform Trust Decanting Act modifies, limits or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

## **Chapter 72 Section 2-101 Laws 2016**

SECTION 2-101. Section 45-2-904 NMSA 1978 (being Laws 1992, Chapter 66, Section 4, as amended) is amended to read:

"45-2-904. EXCLUSIONS.--

A. Section 45-2-901 NMSA 1978 does not apply to:

(1) a nonvested property interest or a power of appointment arising out of a nondonative transfer, except a nonvested property interest or a power of appointment arising out of:

(a) a premarital or postmarital agreement;

(b) a separation or divorce settlement;

(c) a spouse's election;

(d) a similar arrangement arising out of a prospective, existing or previous marital relationship between the parties;

(e) a contract to make or not to revoke a will or trust;

(f) a contract to exercise or not to exercise a power of appointment;

(g) a transfer in satisfaction of a duty of support; or

(h) a reciprocal transfer;

(2) a fiduciary's power relating to the administration or management of assets, including the power of a fiduciary to sell, lease or mortgage property and the power of a fiduciary to determine principal and income;

(3) a power to appoint a fiduciary;

(4) a discretionary power of a trustee to distribute principal before termination of a trust to a beneficiary having an indefeasibly vested interest in the income and principal;

(5) a nonvested property interest held by a charity, government or governmental agency or subdivision if the nonvested property interest is preceded by an interest held by another charity, government or governmental agency or subdivision;

(6) a nonvested property interest in or a power of appointment with respect to a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral or other current or deferred benefit plan for one or more employees, independent contractors or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement, except a nonvested property interest or a power of appointment that is created by an election of a participant or a beneficiary or spouse;

(7) a property interest, power of appointment or arrangement that was not subject to the common-law rule against perpetuities or that is excluded by another statute of New Mexico; or

(8) a property interest held in trust.

B. For real property held in trust, at the end of three hundred sixty-five years from the later of the date on which an interest in real property is added to or purchased by a trust or the date that the trust became irrevocable, if the interest in real property is still held in trust and if the trust instrument:

(1) provides for the distribution of the interest upon termination of the trust, the property shall be distributed as though termination occurred at that time;

(2) does not provide for the distribution of the interest upon termination of the trust, the property shall be distributed to the beneficiaries who are then entitled to receive income from the trust:

(a) in proportion to the amount of income each is entitled to receive; or

(b) if that proportion is not specified in the trust instrument, in equal shares; or

(3) does not provide for the distribution of the interest upon termination of the trust and there is no income beneficiary of the trust, the property shall be distributed, pursuant to the laws of New Mexico then in effect that govern the distribution of intestate real property, to the then-living persons who are then determined



to be the settlor's or testator's distributees as though the settlor or testator had died at that time, intestate, a resident of New Mexico and owning the property so distributable. For the purposes of this paragraph, "settlor" means a person who creates or contributes property to a trust.

C. A trust shall not become void or subject to termination under this section or Section 45-2-901 NMSA 1978 if:

- (1) a trust holds an interest in a corporation, a limited liability company, a partnership, a statutory trust, a business trust or another business entity;
- (2) the entity is the owner of an interest in real property;
- (3) the entity terminates; and
- (4) the trust becomes the holder of an interest in real property.

D. Except as otherwise provided in the trust instrument, the trustee of a trust that becomes the holder of an interest in real property through the sequence outlined in Subsection C of this section may:

- (1) distribute the interest in real property in accordance with this subsection; or
- (2) convey the interest in real property to another business entity in exchange for an interest in that entity to be held by the trustee.

E. For the purposes of this section, "real property" does not include:

- (1) intangible personal property; or
- (2) an interest in a corporation, a limited liability company, a partnership, a statutory trust, a business trust or another business entity, regardless of whether the entity is the owner of an interest in real property."

## **Chapter 72 Section 3-101 Laws 2016**

### **SECTION 3-101. EFFECTIVE DATE.--**

A. The effective date of the provisions of Section 2-101 of this act is July 1, 2016.

B. The effective date of the provisions of Sections 1-101 through 1-129 of this act is January 1, 2017.

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House Bill 280, aa

Approved March 8, 2016

## **LAWS 2016, CHAPTER 73**

AN ACT

RELATING TO LIQUOR CONTROL; REQUIRING RULEMAKING TO ALLOW SEGREGATED SALES OF BEER OR CIDER PACKAGED IN GROWLERS AND TO ESTABLISH PROCEDURES RELATED TO REFILLING GROWLERS.

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

### **Chapter 73 Section 1 Laws 2016**

SECTION 1. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2015, Chapter 3, Section 28 and by Laws 2015, Chapter 102, Section 2) is amended to read:

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

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

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

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

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

E. "club" means:

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

and full membership privileges, and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

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

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

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

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

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

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

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

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

K. "golf course" means a tract of land and facilities used for playing golf and other recreational activities that includes tees, fairways, greens, hazards, putting

greens, driving ranges, recreational facilities, patios, pro shops, cart paths and public and private roads that are located within the tract of land;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC. "winer" means a winegrower; and

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

## **Chapter 73 Section 2 Laws 2016**

SECTION 2. Section 60-6B-19 NMSA 1978 (being Laws 1993, Chapter 68, Section 36, as amended) is amended to read:

"60-6B-19. RETAILERS AND DISPENSERS--SEGREGATED SALES--TABLE WINES EXCEPTED.--

A. Except as provided in Subsection B of this section, the director shall by rule develop procedures for segregated alcohol sales by every retailer or dispenser who sells alcoholic beverages in unbroken packages for consumption and not for resale off the licensed premises and whose sales are less than sixty percent of their total sales, giving serious consideration to the potentially adverse impact of segregated sales on different sizes of the establishments of the retailer or dispenser. The rules shall include:

(1) a provision to allow segregated sales of beer or cider that is packaged in a growler;

(2) a procedure by which a retailer or dispenser may fill or refill a growler and allow the growler to be removed from the licensed premises after the growler is sealed with a tamper-proof seal and the customer's sales receipt is attached to the growler; and

(3) a requirement that a retailer or dispenser shall sterilize a growler provided by a customer before the growler is refilled and sealed.

B. There shall not be segregated sales of table wine by retailers or dispensers who sell alcoholic beverages in the manner described in Subsection A of this section.

C. For purposes of this section, "table wine" means wine containing fourteen percent or less alcohol by volume when bottled or packaged by the manufacturer, but may also 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 produced solely as a result of the natural fermentation process and not produced with the addition of wine spirits, brandy or alcohol; or

(3) vermouth and sherry."

## **Chapter 73 Section 3 Laws 2016**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 163, aa

Approved March 8, 2016

## **LAWS 2016, CHAPTER 74**

AN ACT

RELATING TO MINING; ENACTING THE INTERSTATE MINING COMPACT ACT TO PROVIDE FOR NEW MEXICO'S ENTRY TO MEMBERSHIP ON THE INTERSTATE MINING COMPACT COMMISSION.

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

### **Chapter 74 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--This act may be cited as the "Interstate Mining Compact Act".

### **Chapter 74 Section 2 Laws 2016**

SECTION 2. MEMBERSHIP.--

A. The governor is authorized to participate in the Interstate Mining Compact as a member of the Interstate Mining Compact commission.

B. The governor may designate the secretary of energy, minerals and natural resources or the director of the mining and minerals division of the energy, minerals and natural resources department as the governor's alternate to the Interstate Mining Compact commission.

### **Chapter 74 Section 3 Laws 2016**

SECTION 3. LIMITATIONS.--

A. No provisions of the Interstate Mining Compact Act or any policies of the Interstate Mining Compact commission shall be construed to limit, repeal or supersede any law of the state of New Mexico.

B. The governor and the legislature or their designated agents shall have the right to inspect the books and accounts of the Interstate Mining Compact commission at any reasonable time while the state of New Mexico is a member.

C. The secretary of energy, minerals and natural resources shall file with the state records administrator a copy of the bylaws of the Interstate Mining Compact commission and any other compact documents required by Section 14-3-20 NMSA 1978.

## **Chapter 74 Section 4 Laws 2016**

SECTION 4. EXPENSES.--The secretary of energy, minerals and natural resources may pay annual membership dues to the Interstate Mining Compact commission out of fees collected under the Surface Mining Act or from funds granted to the state by the federal office of surface mining reclamation and enforcement of the department of the interior.

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Senate Bill 173, aa

Approved March 8, 2016

## **LAWS 2016, CHAPTER 75**

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS SECURED BY A PLEDGE OF CIGARETTE TAX DISTRIBUTIONS OR PUBLIC PROJECT REVOLVING FUND MONEY FOR DEPARTMENT OF HEALTH FACILITIES; MAKING AN APPROPRIATION.

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

## **Chapter 75 Section 1 Laws 2016**

SECTION 1. Section 6-21-6.10 NMSA 1978 (being Laws 2005, Chapter 58, Section 1) is amended to read:

"6-21-6.10. NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--  
PURPOSE--APPROPRIATION.--

A. The authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not exceeding two million five hundred thousand dollars (\$2,500,000) for the behavioral health capital fund to make loans to eligible entities for capital projects pursuant to the Behavioral Health Capital Funding Act.



B. The net proceeds from the sale of the bonds are appropriated to the behavioral health capital fund for the purposes described in Subsection A of this section.

C. The cigarette tax proceeds distributed to the authority pursuant to Subsection D of Section 7-1-6.11 NMSA 1978:

(1) are appropriated to the authority to 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; and

(2) shall be deposited in a separate fund or account of the authority; provided that money in the separate fund or account in excess of the amount necessary for payment of principal and interest on the bonds and necessary reserves or sinking funds may be transferred to any other account of the authority and used for purposes of the New Mexico Finance Authority Act.

D. The authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act in an amount not to exceed five million dollars (\$5,000,000) for acquiring land for and planning, designing, constructing and equipping department of health facilities or improvements to those facilities, upon certification from the secretary of health that such projects are needed. The costs associated with issuing the bonds shall be paid from the net proceeds from the sale of the bonds, and the remainder is appropriated to the facilities management division of the general services department for the projects certified pursuant to this subsection.

E. The cigarette tax proceeds distributed to the authority pursuant to Subsection F of Section 7-1-6.11 NMSA 1978:

(1) are appropriated to the authority to be pledged irrevocably for the payment of the principal, interest, premiums and related expenses of the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds; and

(2) shall be deposited in a separate fund or account of the authority.

F. 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.

G. The authority may 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."

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Senate Bill 189

Approved March 8, 2016

## **LAWS 2016, CHAPTER 76**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; ALLOWING THE SALE, SERVICE, DELIVERY OR CONSUMPTION OF ALCOHOLIC BEVERAGES ON THE GROUNDS OF SKI AREAS.

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

### **Chapter 76 Section 1 Laws 2016**

SECTION 1. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2015, Chapter 3, Section 28 and by Laws 2015, Chapter 102, Section 2) is amended to read:

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

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

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

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

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

E. "club" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

DD. "winer" means a winegrower; and

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

## **Chapter 76 Section 2 Laws 2016**

SECTION 2. Section 60-6A-31 NMSA 1978 (being Laws 1993, Chapter 68, Section 37, as amended) is amended to read:

"60-6A-31. STATE FAIR--GOLF COURSES--SKI AREAS--ALCOHOLIC BEVERAGE SALES RESTRICTIONS.--Sales, service, delivery or consumption of alcoholic beverages shall be permitted on the grounds of the state fair, on the grounds of golf courses, on the grounds of ski areas and on the grounds and in the vineyards of a winery only on the licensed premises in controlled access areas of the state fair, golf courses, ski areas and wineries, the designation of which has been negotiated as part of the license application or renewal process."

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Senate Bill 193

Approved March 8, 2016

## **LAWS 2016, CHAPTER 77**

AN ACT

RELATING TO TAXATION; AMENDING SECTIONS OF THE TAX ADMINISTRATION ACT AND THE FILM PRODUCTION TAX CREDIT ACT TO CONFORM REFERENCES IN LAW.

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

## **Chapter 77 Section 1 Laws 2016**

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

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;
- (4) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross receipts tax;
- (8) any county local option gross receipts tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
- (12) Alternative Fuel Tax Act;
- (13) Cigarette Tax Act;
- (14) Estate Tax Act;
- (15) Railroad Car Company Tax Act;
- (16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;
- (17) Corporate Income and Franchise Tax Act;
- (18) Uniform Division of Income for Tax Purposes Act;

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act; and

(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;



(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act;

and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

## **Chapter 77 Section 2 Laws 2016**

SECTION 2. Section 7-2F-2.1 NMSA 1978 (being Laws 2015, Chapter 143, Section 4) is amended to read:

"7-2F-2.1. ADDITIONAL DEFINITIONS.--As used in Sections 7-2F-6 through 7-2F-12 NMSA 1978:

A. "direct production expenditure":

(1) except as provided in Paragraph (2) of this subsection, means a transaction that is subject to taxation in New Mexico, including:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for standard industry craft inventory when provided by a resident industry crew in addition to its industry crew services;

(c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by a film production

company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(d) payment to a personal services business on the wages and per diem paid to a performing artist of the personal services business if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to Subsection I of Section 7-2F-6 NMSA 1978; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation; or

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations;

B. "film production company" means a person that produces one or more films or any part of a film and that commences principal photography on or after January 1, 2016; and

C. "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business."

## **Chapter 77 Section 3 Laws 2016**

SECTION 3. Section 7-2F-3 NMSA 1978 (being Laws 2011, Chapter 165, Section 4) is amended to read:

"7-2F-3. PURPOSES--GOALS.--The purposes and goals of the Film Production Tax Credit Act are to:

A. establish the film industry as a permanent component of the economic base of New Mexico;

B. develop a pool of trained professionals and businesses in New Mexico to supply and support the film industry in the state;

C. increase employment of New Mexico residents;

D. improve the economic success of existing businesses in New Mexico;  
and

E. develop the infrastructure in the state necessary for a thriving film industry."

## **Chapter 77 Section 4 Laws 2016**

SECTION 4. Section 7-2F-4 NMSA 1978 (being Laws 2011, Chapter 165, Section 5, as amended) is amended to read:

"7-2F-4. REPORTING--ACCOUNTABILITY.--

A. The economic development department shall:

(1) collect data to be used in an econometric tool that objectively assesses the effectiveness of the credits provided by the Film Production Tax Credit Act;

(2) track the direct expenditures for the credits;

(3) with the support and assistance of the legislative finance committee staff and the taxation and revenue department, review and assess the analysis developed in Paragraph (1) of this subsection and create a report for presentation to the revenue stabilization and tax policy committee and the legislative finance committee that provides an objective assessment of the effectiveness of the credits; and

(4) report annually to the revenue stabilization and tax policy committee and the legislative finance committee on aggregate approved tax credits made pursuant to the Film Production Tax Credit Act.

B. The division shall develop a form on which the taxpayer claiming a credit pursuant to the Film Production Tax Credit Act shall submit a report to accompany the taxpayer's application for that credit.

C. With respect to the production on which the application for a credit is based, the film production company shall report to the division at a minimum the following information:

(1) the total aggregate wages of the members of the New Mexico resident crew;

(2) the number of New Mexico residents employed;

(3) the total amount of gross receipts taxes paid;

(4) the total number of hours worked by New Mexico residents;

(5) the total expenditures made in New Mexico that do not qualify for the credit;

(6) the aggregate wages paid to the members of the nonresident crew while working in New Mexico; and

(7) other information deemed necessary by the division and economic development department to determine the effectiveness of the credit.

D. For purposes of assessing the effectiveness of a credit, the inability of the economic development department to aggregate data due to sample size shall not relieve the department of the requirement to report all relevant data to the legislature.

The division shall provide notice to a film production company applying for a credit that information provided to the division may be revealed by the department in reports to the legislature."

## **Chapter 77 Section 5 Laws 2016**

SECTION 5. Section 7-2F-5 NMSA 1978 (being Laws 2015, Chapter 62, Section 1) is amended to read:

"7-2F-5. ASSIGNMENT.--

A. A film production company that is eligible to receive a credit pursuant to the Film Production Tax Credit Act may assign the payment of an authorized film production tax credit or a film and television tax credit to a third-party financial institution, or to an authorized third party, one time in a full or partial amount. If the parties to the assignment have complied with the procedures established by the taxation and revenue department for the assignment of a film production tax credit payment, the department shall remit to the institution that amount of tax credit approved by the department that would otherwise be remitted to the company.

B. For the purposes of this section:

(1) "authorized third party" means an entity that:

(a) holds the rights to a film for which a film production tax credit may be claimed; and

(b) initiates that film's production; and

(2) "financial institution" means:

(a) a fund purposely created to produce a film; or

(b) a bank, savings institution or credit union that is organized or chartered pursuant to the laws of New Mexico or the United States and that files a New Mexico income tax return."

## **Chapter 77 Section 6 Laws 2016**

SECTION 6. Section 7-2F-6 NMSA 1978 (being Laws 2015, Chapter 143, Section 5) is amended to read:

"7-2F-6. FILM AND TELEVISION TAX CREDIT--FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER JANUARY 1, 2016.--

A. The tax credit created by this section may be referred to as the "film and television tax credit".

B. An eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in Section 7-2F-12 NMSA 1978, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film and television tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for postproduction services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film and television tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

C. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film and television tax credit is twenty percent.

D. The film and television tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

E. A production for which the film and television tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

F. To be eligible for the film and television tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall provide to the division a projection of the film and television tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the website 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 website until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film and television tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film and television tax credit and supporting documentation to the division within one year of the close of the

film production company's taxable year in which the expenditures in New Mexico were incurred for the registered project and that are included in the credit claim.

G. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

H. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and processed for the fiscal year.

I. To receive a film and television tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film and television tax credit; provided that for the film and television tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico incurred within the film production company's taxable year. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, subject to the provisions of Section 7-2F-12 NMSA 1978, the taxation and revenue department shall approve the film and television tax credit and issue a document granting the tax credit.

J. The film production company may apply all or a portion of the film and television tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film and television tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded."

## **Chapter 77 Section 7 Laws 2016**

SECTION 7. Section 7-2F-7 NMSA 1978 (being Laws 2015, Chapter 143, Section 6) is amended to read:

"7-2F-7. ADDITIONAL CREDIT--TELEVISION PILOTS AND SERIES.--



A. In addition to the credit provided by Section 7-2F-6 NMSA 1978, an additional five percent shall be applied in calculating the amount of the film and television tax credit to direct production expenditures, except as provided in Subsections C and D of this section, on:

(1) a standalone pilot intended for series television in New Mexico;  
and

(2) series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more.

B. A film production company applying for an additional credit pursuant to this section shall not be eligible for the additional credit pursuant to Section 7-2F-8 NMSA 1978.

C. Direct production expenditures that are payments to a nonresident performing artist in a standalone pilot shall not be eligible for the additional credit pursuant to this section.

D. Payments to a nonresident performing artist for a television series may be eligible for the additional credit pursuant to this section; provided that:

(1) a television series completes at least one season of the scheduled episodes for that series in New Mexico;

(2) the film production company certifies the intention to produce a subsequent season to the series described in Paragraph (1) of this subsection in New Mexico; and

(3) the film production company, or its parent company, produces or begins production of an additional eligible television series in New Mexico during the same film production company's taxable year as the television series. Payments to a nonresident performing artist for the additional television series may also be eligible for the additional credit pursuant to this section."

## **Chapter 77 Section 8 Laws 2016**

SECTION 8. Section 7-2F-8 NMSA 1978 (being Laws 2015, Chapter 143, Section 7) is amended to read:

"7-2F-8. ADDITIONAL CREDIT--QUALIFIED PRODUCTION FACILITIES.--

A. In addition to the credit provided by Section 7-2F-6 NMSA 1978, an additional five percent shall be applied in calculating the amount of the film and

television tax credit to direct production expenditures that are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years. The direct production expenditures shall be on a production with a total new budget of:

(1) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(2) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company shall:

(a) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and

(b) for each day of the fifteen days, include industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

B. A film production company that receives an additional credit pursuant to Section 7-2F-7 NMSA 1978 shall not be eligible for the additional credit pursuant to this section."

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Senate Bill 211

Approved March 8, 2016

## **LAWS 2016, CHAPTER 78**

AN ACT

RELATING TO NATURAL RESOURCES; PROVIDING FOR THE DEVELOPMENT,  
REGULATION AND CONSERVATION OF GEOTHERMAL RESOURCES;

REPEALING THE GEOTHERMAL RESOURCES CONSERVATION ACT AND ENACTING THE GEOTHERMAL RESOURCES DEVELOPMENT ACT; REQUIRING GEOTHERMAL PERMITS; PROVIDING POWERS AND DUTIES; PRESCRIBING CIVIL PENALTIES AND REMEDIES.

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

### **Chapter 78 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Geothermal Resources Development Act".

### **Chapter 78 Section 2 Laws 2016**

SECTION 2. FINDINGS AND PURPOSE.--The legislature finds that the people of New Mexico have a direct interest in the development of geothermal resources and that the state should exercise its power and jurisdiction through the division to require that geothermal resources be explored, developed and produced in such a manner as to safeguard life, health, property, natural resources and the public welfare and to encourage maximum economic recovery.

### **Chapter 78 Section 3 Laws 2016**

SECTION 3. DEFINITIONS.--As used in the Geothermal Resources Development Act:

A. "correlative rights" means the opportunity afforded, insofar as is practicable, to each owner or leaseholder in a geothermal reservoir to produce the owner's or leaseholder's just and equitable share of the geothermal resources within such reservoir, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the recoverable geothermal resources of such ownership or lease interest bear to the total recoverable geothermal resources in the reservoir and, for such purpose, to use the owner's or leaseholder's just and equitable share of the natural heat or energy in the reservoir;

B. "division" means the energy conservation and management division of the energy, minerals and natural resources department;

C. "geothermal reservoir" means an underground reservoir containing geothermal resources, whether the fluids in the reservoir are native to the reservoir or flow into or are injected into the reservoir;

D. "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 that 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 geo-exchange heat pump or similar on-site system; and

E. "person" means an individual or other legal entity, including federal, state or local governments or their agents or instrumentalities.

## **Chapter 78 Section 4 Laws 2016**

### **SECTION 4. EXCLUSION--INCIDENTAL LOSS OR EXTRACTION OF HEAT-- LIMITED EXCEPTION.--**

A. A permit from the state engineer is not required for the use of ground water over two hundred fifty degrees Fahrenheit as incident to the development of geothermal resources permitted pursuant to the Geothermal Resources Development Act when:

(1) the use does not require any diversion of ground water; or

(2) all diverted ground water is reinjected as soon as practicable into the same ground water source from which it was diverted, resulting in no new depletions to the source; provided that:

(a) the division shall provide to the state engineer all information available to the division regarding the proposed diversion and reinjection and shall request the opinion of the state engineer as to whether existing ground water rights sharing the same ground water source may be impaired; and

(b) if the state engineer determines that the information provided is sufficient to render an opinion and it is the opinion of the state engineer that any existing ground water rights may be impaired, the division, upon receipt of the opinion of the state engineer, shall require the owner or operator to submit to the division a plan of replacement with regard to any existing ground water rights that are likely to be impaired.

B. In response to a request for opinion pursuant to Subsection A of this section, the determination by the state engineer as to whether the information provided is sufficient to render an opinion or the issuance by the state engineer of an opinion shall not constitute a decision, act or refusal to act under Section 72-2-16 NMSA 1978.

C. No ground water right is established through the use of ground water as allowed in Subsection A of this section.

D. As used in this section, "plan of replacement" means a detailed plan for the replacement of water, which may include:

- (1) the furnishing of a substitute water supply;
- (2) the modification of existing water supply facilities;
- (3) the drilling of replacement wells;
- (4) the assumption of additional operating costs;
- (5) the procurement of documentation establishing a waiver of protection by owners of affected water rights;
- (6) artificial recharge; or
- (7) any other means to avoid impairment of water rights.

## **Chapter 78 Section 5 Laws 2016**

### **SECTION 5. GENERAL DUTIES, JURISDICTION AND AUTHORITY OF THE DIVISION.--**

A. The division shall regulate the exploration, development and production of geothermal resources on public and private land for the purposes of conservation; protection of correlative rights; protection of life, health, property, natural resources, the environment and the public welfare; and encouraging maximum economic recovery of the geothermal resources. The division may require persons seeking to explore, develop or produce geothermal resources to obtain permits from the division.

B. The division has jurisdiction over all matters relating to the exploration, development and production of geothermal resources. It has jurisdiction, authority and control of all persons, matters and things necessary or proper to enforce effectively the provisions of the Geothermal Resources Development Act, including making investigations and inspections of geothermal projects, facilities and wells.

C. The division may limit and allocate production of geothermal resources as needed to prevent waste whenever the total amount of geothermal resources that may be produced from a geothermal reservoir is limited. The division shall allocate and distribute the allowable production, insofar as is practicable, to afford each ownership or lease interest in a geothermal reservoir the opportunity to produce its just and equitable share of the geothermal resources in the reservoir.

D. The division shall have exclusive authority to regulate injection into geothermal wells pursuant to the Geothermal Resources Development Act and shall

have exclusive authority over matters related to the protection of natural resources, property, health and public welfare as they relate to geothermal injection wells.

## **Chapter 78 Section 6 Laws 2016**

### SECTION 6. RULES.--

A. The division shall promulgate and enforce rules providing for the exploration, development and production of geothermal resources and to accomplish the purposes of the Geothermal Resources Development Act and that are reasonably necessary to carry out the purposes of that act whether or not indicated or specified in any section of that act.

B. The rules shall include, at minimum, provisions to:

(1) protect the environment against damage resulting from the exploration, development or production of geothermal resources;

(2) prevent waste of natural resources, including geothermal resources, in connection with the exploration, development or production of geothermal resources;

(3) ensure proper casing to prevent geothermal resources, water or other fluids from escaping from the strata in which they are found into other strata;

(4) prevent the premature cooling of any geothermal reservoir from the exploration, development or production of geothermal resources;

(5) protect the general public against injury or damage resulting from the exploration, development or production of geothermal resources;

(6) protect correlative rights against infringement resulting from the exploration, development or production of geothermal resources;

(7) regulate disposal of geothermal resources or the residue of geothermal resources or the disposal of nondomestic waste from the exploration, development or production of geothermal resources and direct the surface or subsurface disposal of such in a manner that will afford reasonable protection against contamination of all fresh water and water of present or probable future value for domestic, commercial, agricultural or stock purposes and will afford reasonable protection to human life and health and to the environment;

(8) regulate the permitting of geothermal projects, facilities and wells and provide for public notice and comment and an opportunity for hearing;

(9) where sufficient information is available, define and, from time to time as is necessary, redefine the horizontal and vertical limits of geothermal reservoirs;

(10) permit and regulate the injection of fluids into geothermal reservoirs;

(11) require geothermal projects, facilities and wells to be drilled, installed, developed, operated or produced in a manner so as to prevent environmental injury to neighboring leases or properties and to afford reasonable protection to human life and health and to the environment;

(12) require persons applying for permits to explore, develop or produce geothermal resources to demonstrate that they have the right to produce the geothermal resources through ownership, leases, permits or other documentation;

(13) require geothermal projects, facilities and wells to be operated efficiently;

(14) require financial assurance in the form of a surety bond, cash bond or letter of credit for geothermal projects, facilities and wells, as may be applicable, in amounts to be established by the division;

(15) require owners or operators of geothermal projects, facilities or wells to keep or cause records to be maintained and submitted to the division;

(16) require abandoned geothermal projects, facilities and wells to be reclaimed, including requiring wells to be plugged in a manner to confine all fluids in the strata in which they are found and to prevent them from escaping into other strata; and

(17) govern the manner and procedures by which all hearings conducted pursuant to the Geothermal Resources Development Act shall be held.

## **Chapter 78 Section 7 Laws 2016**

SECTION 7. ACCESS TO PROPERTY.--Employees or agents of the division, on proper identification, may enter public or private property to inspect and investigate conditions in relation to the exploration, development or production of geothermal resources, to monitor compliance with the Geothermal Resources Development Act or a rule, permit or order of the division, or to examine and copy, during reasonable business hours, those records or memoranda of the business being investigated; provided, however, that any inspection or investigation on private property shall be at reasonable times and upon notice to the private landowner. Employees or agents acting under the authority of this section shall observe the business's safety, internal security and fire protection rules.

## **Chapter 78 Section 8 Laws 2016**

### **SECTION 8. ADMINISTRATIVE PENALTY.--**

A. If a person violates the provisions of the Geothermal Resources Development Act or the rules promulgated pursuant to that act or an order or permit issued pursuant to that act, the division may assess the person a civil penalty of two thousand five hundred dollars (\$2,500) for each violation. In the case of a continuing violation, each day of violation shall constitute a separate violation.

B. In determining the amount of the penalty, the division shall consider the person's history of previous violations of the Geothermal Resources Development Act or the Geothermal Resources Act or the rules or permits issued pursuant to those acts, the seriousness of the violation, any hazard to the health or safety of the public or the environment and the demonstrated good faith of the person.

C. The division may assess a civil penalty only after the person charged with a violation has been given an opportunity for a public hearing.

D. After the public hearing is held, or the person has failed to participate in the public hearing, the division shall issue an order requiring that any penalty imposed be paid.

E. If the person fails to pay the civil penalty as ordered by the division, the division may file a civil suit to collect the penalty in the district court of the county in which the defendant resides or in which any defendant resides if there is more than one defendant or in the district court of any county in which the violation occurred.

## **Chapter 78 Section 9 Laws 2016**

SECTION 9. APPEALS.--A person subject to a final decision of the division may appeal to the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978.

## **Chapter 78 Section 10 Laws 2016**

SECTION 10. WATER RIGHTS OWNER--ACTION FOR IMPAIRMENT.--In addition to the appeal rights pursuant to Section 9 of the Geothermal Resources Development Act, a water rights owner may bring a de novo action in the district court in which the water rights are located for damages or injunctive relief with respect to any claimed impairment of existing water rights due to the exploration, development or production of geothermal resources pursuant to Section 4 of that act.

## **Chapter 78 Section 11 Laws 2016**



SECTION 11. TRANSFER OF ADMINISTRATION OF RULES, ORDERS AND PERMITS.--All rules, orders, permits and administrative determinations of the oil conservation division of the energy, minerals and natural resources department or oil conservation commission issued pursuant to the Geothermal Resources Conservation Act that existed prior to the effective date of the Geothermal Resources Development Act shall be administered by the energy conservation and management division of the department and shall remain in full force and effect after that date until repealed or amended, unless in conflict with, prohibited by or inconsistent with the provisions of the Geothermal Resources Development Act.

## **Chapter 78 Section 12 Laws 2016**

SECTION 12. Section 9-5A-4 NMSA 1978 (being Laws 1987, Chapter 234, Section 4, as amended) is amended to read:

"9-5A-4. DIVISIONS--DUTIES.--In addition to the duties assigned to each division of the energy, minerals and natural resources department by the secretary of energy, minerals and natural resources:

A. the administrative services division shall provide clerical, recordkeeping and administrative support to the department in the areas of personnel, budget, procurement and contracting;

B. the energy conservation and management division shall plan, administer, review, provide technical assistance, maintain records, monitor state and federal energy conservation and alternative energy technology programs and administer laws and regulations relating to geothermal resources;

C. the forestry division shall enforce and administer laws and regulations relating to forestry on lands within the state;

D. the mining and minerals division shall enforce and administer laws and regulations relating to mine safety, coal surface mine reclamation and abandoned mine lands reclamation;

E. the oil conservation division shall administer laws and regulations relating to oil and gas resources, except those laws specifically administered by another authority; and

F. the state parks division shall develop, maintain, manage and supervise all state parks and state-owned or state-leased recreation areas."

## **Chapter 78 Section 13 Laws 2016**

SECTION 13. TEMPORARY PROVISION--TRANSFER OF APPROPRIATIONS, MONEY AND RECORDS.--On the effective date of this act, any appropriations, money

and records of the oil conservation commission or the oil conservation division of the energy, minerals and natural resources department dedicated to its powers and duties under the Geothermal Resources Conservation Act are transferred to the energy conservation and management division of that department.

## **Chapter 78 Section 14 Laws 2016**

SECTION 14. REPEAL.--Sections 71-5-1 through 71-5-24 NMSA 1978 (being Laws 1975, Chapter 272, Sections 1 and 2, Laws 2003, Chapter 16, Section 2, Laws 1975, Chapter 272, Sections 3 through 17, Laws 1979, Chapter 326, Sections 1 through 5, Laws 1975, Chapter 272, Sections 18 through 21, Laws 2012, Chapter 50, Section 2, Laws 1975, Chapter 272, Section 22, Laws 1981, Chapter 362, Section 2 and Laws 1975, Chapter 272, Section 24, as amended) are repealed.

## **Chapter 78 Section 15 Laws 2016**

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 223, aa

Approved March 8, 2016

# **LAWS 2016, CHAPTER 79**

## **AN ACT**

RELATING TO COMPLIANCE WITH THE FEDERAL REAL ID ACT OF 2005; PROVIDING TWO TIERS OF DRIVING DOCUMENTS AND IDENTIFICATION CARDS; CREATING DRIVER'S LICENSES AND IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; REQUIRING PROOF OF LAWFUL STATUS IN THE UNITED STATES FOR APPLICANTS TO OBTAIN DRIVER'S LICENSES OR IDENTIFICATION CARDS THAT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; CREATING DRIVING AUTHORIZATION CARDS THAT DO NOT MEET THE REQUIREMENTS OF THE FEDERAL REAL ID ACT OF 2005; LIMITING THE VALIDITY PERIOD OF CERTAIN DRIVER'S LICENSES AND IDENTIFICATION CARDS; REQUIRING A PHOTOGRAPH AND FINGERPRINTS FROM CERTAIN APPLICANTS FOR DRIVING AUTHORIZATION CARDS AND CERTAIN IDENTIFICATION CARDS; PROVIDING FOR THE EXCHANGE OF DRIVER'S LICENSES AND IDENTIFICATION CARDS; RAISING THE AGE FOR ANNUAL RENEWALS OF DRIVER'S LICENSES; INCREASING PENALTIES AND IMPOSING NEW PENALTIES.

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

## **Chapter 79 Section 1 Laws 2016**

SECTION 1. Section 66-1-4.4 NMSA 1978 (being Laws 1990, Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "day" means calendar day, unless otherwise provided in the Motor Vehicle Code;

B. "dealer", except as specifically excluded, means any person who sells or solicits or advertises the sale of new or used motor vehicles, manufactured homes or trailers subject to registration in this state; "dealer" does not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers;

(3) persons making casual sales of their own vehicles;

(4) finance companies, banks and other lending institutions making sales of repossessed vehicles; or

(5) licensed brokers under the Manufactured Housing Act who, for a fee, commission or other valuable consideration, engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured homes on a site installed for a consumer;

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

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "designated accessible parking space for persons with significant mobility limitation" means any space, including an access aisle, that is marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard with the international symbol of access issued in accordance with Section 66-3-16 NMSA 1978 and that is designated by a conspicuously posted sign

bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space;

F. "director" means the secretary;

G. "disqualification" means a prohibition against driving a commercial motor vehicle;

H. "distinguishing number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number;

I. "distributor" means a person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

J. "division", without further specification, "division of motor vehicles" or "motor vehicle division" means the department;

K. "driver" means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a highway, who is exercising control over or steering a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle;

L. "driver's license" means a license or a class of license issued by a state or other jurisdiction pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal agencies for official federal purposes;

M. "driveaway-towaway operation" means an operation in which any motor vehicle, new or used, is the item being transported when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power; and

N. "driving authorization card" means a card issued or recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and not intended to be accepted by federal agencies for official federal purposes."

## **Chapter 79 Section 2 Laws 2016**

SECTION 2. Section 66-1-4.10 NMSA 1978 (being Laws 1990, Chapter 120, Section 11) is amended to read:

"66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic;

B. "law enforcement agency designated by the division" means the law enforcement agency indicated on the dismantler's notification form as the appropriate agency for the receipt of the appropriate copy of that form;

C. "lawful status" means the legal right to be present in the United States, as that phrase is used in the federal REAL ID Act of 2005;

D. "license", without modification, means any license, permit or driving authorization card recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles;

E. "lien" or "encumbrance" means every chattel mortgage, conditional sales contract, lease, purchase lease, sales lease, contract, security interest under the Uniform Commercial Code or other instrument in writing having the effect of a mortgage or lien or encumbrance upon, or intended to hold, the title to any vehicle in the former owner, possessor or grantor; and

F. "local authorities" means every county, municipality and any local board or body having authority to enact laws relating to traffic under the constitution and laws of this state."

## **Chapter 79 Section 3 Laws 2016**

SECTION 3. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE, TEMPORARY LICENSE, PROVISIONAL LICENSE, INSTRUCTION PERMIT OR DRIVING AUTHORIZATION CARD OR RENEWAL.--

A. An application for an instruction permit, provisional license, driver's license or driving authorization card or a renewal of an instruction permit, provisional license, driver's license or driving authorization card shall be made upon a form furnished by the department. An application shall be accompanied by the proper fee. For permits, provisional licenses, driver's licenses or driving authorization cards other than those issued pursuant to the New Mexico Commercial Driver's License Act, submission of a complete application with payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

B. An application shall contain the applicant's full legal name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so,

when and by what state or country and whether any such license has ever been suspended or revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal. The secretary shall establish by regulation documents that may be accepted as evidence of the residency of the applicant. A person applying for or renewing a driver's license shall provide documentation required by the federal government of the applicant's identity, date of birth, social security number, if applicable, address of current residence and lawful status. For an applicant for a driver's license or a renewal of a driver's license, the department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government.

C. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable.

D. A person with lawful status may apply for a driver's license or a driving authorization card.

E. An applicant shall indicate whether the applicant is applying for a driver's license or a driving authorization card. The department shall issue a driving authorization card to an applicant who is otherwise eligible for a driver's license but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that a driving authorization card is not valid for federal purposes. An applicant who does not provide proof of lawful status shall only apply for a driving authorization card. Except as otherwise provided in the Motor Vehicle Code, the department may treat driving authorization cards as driver's licenses.

F. An application by a foreign national with lawful status for a driver's license shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant a driver's license that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the license shall expire one year after the effective date of the license.

G. An application for a driving authorization card shall include proof of the applicant's identity and age as shown by:

(1) a social security number or an individual tax identification number;

(2) a passport from the applicant's country of citizenship or an identification card, issued by the consulate of Mexico in Albuquerque, New Mexico, the consulate general of Mexico in El Paso, Texas, or such other foreign consulate with which the department has established a reliable method of verifying the authenticity of the identification card;

(3) a valid New Mexico license or identification card;

(4) a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo; or

(5) a document that the secretary has authorized.

H. An applicant shall indicate whether the applicant has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a driver's license, driving authorization card, provisional license, temporary license or instruction permit for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the driver's license, driving authorization card, provisional license, temporary license or instruction permit for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

I. An applicant under eighteen years of age who is making an application for a first New Mexico driver's license or driving authorization card shall submit evidence that the applicant has:

(1) successfully completed a driver education course approved by the bureau that included a DWI prevention and education component. The bureau may accept verification of driver education course completion from another state if the driver education course substantially meets the requirements of the bureau for a course offered in New Mexico;

(2) had a provisional license for at least the twelve-month period immediately preceding the date of the application for the driver's license or driving authorization card; provided that thirty days shall be added to the twelve-month period for each adjudication or conviction of a traffic violation committed during the time the person was driving with a provisional license;

(3) complied with restrictions on that license;

(4) not been cited for a traffic violation that is pending at the time of application; and

(5) not been adjudicated for an offense involving the use of alcohol or drugs during the twelve-month period immediately preceding the date of the application for the driver's license or driving authorization card and that there are no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of application.

J. An applicant eighteen years of age or over, but under twenty-five years of age, who is making an application to be granted a first New Mexico driver's license or driving authorization card shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

K. An applicant twenty-five years of age or over who has been convicted of driving under the influence of intoxicating liquor or drugs and who is making an application to be granted a first New Mexico driver's license or driving authorization card shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

L. Whenever an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

M. Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

N. This section does not apply to licenses issued pursuant to the New Mexico Commercial Driver's License Act."

## **Chapter 79 Section 4 Laws 2016**

SECTION 4. Section 66-5-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 237, as amended) is amended to read:

"66-5-15. LICENSES ISSUED TO APPLICANTS.--

A. The department shall, upon payment of the required fee, issue to every qualified applicant a license as applied for. The license shall bear the applicant's full legal name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph; a unique license number; a date of issuance; an expiration date; a brief description of the licensee; and the signature of the licensee. A license shall not be valid unless it bears the signature of the licensee.

B. The department shall ensure that driver's licenses and driving authorization cards are distinguishable in color or design.



C. A driver's license issued to a foreign national who fails to prove that the foreign national's lawful status will not expire prior to the date on which the license applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary and shall bear the word "TEMPORARY".

D. A driving authorization card shall bear the statement: "NOT FOR FEDERAL PURPOSES".

## **Chapter 79 Section 5 Laws 2016**

SECTION 5. Section 66-5-19 NMSA 1978 (being Laws 1978, Chapter 35, Section 241, as amended) is amended to read:

"66-5-19. RESTRICTED LICENSES.--

A. The division, upon issuing a license, may, whenever good cause appears, impose restrictions, including the shortening of the licensure period suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee may operate or such other restrictions applicable to the licensee as the division determines to be appropriate to ensure the safe operation of a motor vehicle by the licensee.

B. At age seventy-nine and thereafter, the applicant shall renew the applicant's license on a yearly basis at no cost to the applicant.

C. The division may either issue a special restricted license or may set forth such restrictions upon the usual license form.

D. The division may issue a restricted license or a restricted provisional license for driving during daylight hours only to some visually impaired persons who fail the usual eyesight test. The health standards advisory board created pursuant to the provisions of Section 66-5-6 NMSA 1978 shall evaluate the extent of the visual impairment and the impairment's effect on the driving ability of the applicant and, based on the board's recommendations, the director may issue a restricted license under the following conditions:

(1) the applicant has no record of moving violations;

(2) the necessity of the license is shown to the satisfaction of the director; and

(3) the applicant satisfies the provisions of Section 66-5-206 NMSA 1978 relating to proof of financial responsibility.

E. The division may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend the license, but the licensee is entitled to a hearing as upon a suspension under Sections 66-5-1.1 through 66-5-47 NMSA 1978 and as provided in the Administrative Hearings Office Act.

F. It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person."

## **Chapter 79 Section 6 Laws 2016**

SECTION 6. Section 66-5-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 243, as amended by Laws 2010, Chapter 42, Section 2 and by Laws 2010, Chapter 70, Section 2) is amended to read:

"66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

A. Except as provided in Subsections B through I of this section, Section 66-5-19 NMSA 1978 and Section 66-5-67 NMSA 1978, all licenses shall be issued for a period of four years, and each license shall expire thirty days after the applicant's birthday in the fourth year after the effective date of the license or shall expire thirty days after the applicant's seventy-ninth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a license, except the department shall not renew by mail or telephonic or electronic means a license if prohibited by federal law. The department may require an examination upon renewal of the license.

B. At the option of an applicant, a driver's license may be issued for a period of eight years, provided that the applicant:

(1) pays the amount required for a driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year driver's license; and

(3) will not reach the age of seventy-nine during the last four years of the eight-year license period or reach the age of twenty-one during any year within the term of the license.

C. A driver's license issued pursuant to the provisions of Subsection B of this section shall expire eight years after the effective date of the license.

D. A driver's license issued prior to an applicant's twenty-first birthday shall expire thirty days after the applicant's twenty-first birthday. A driver's license issued prior to an applicant's twenty-first birthday may be issued for a period of up to five years.

E. A driver's license issued to a foreign national shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday;

(3) thirty days after the applicant's birthday in the fourth year after the effective date of the license or eight years after the effective date of the license if the applicant opted for a period of eight years pursuant to Subsection B of this section; or

(4) the expiration date of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the driver's license shall expire one year after the effective date of the license.

F. A driving authorization card issued to an applicant who provides proof of lawful status shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday; or

(3) thirty days after the applicant's birthday in the fourth year after the effective date of the license.

G. A driving authorization card issued to an applicant who does not provide proof of lawful status shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday; or

(3) two years after the effective date of the driving authorization card.

H. A driving authorization card that is valid for two years issued pursuant to Subsection G of this section shall, upon renewal and for subsequent renewals, be valid for four years.

I. The secretary shall adopt regulations providing for the proration of driver's license fees, driving authorization card fees and commercial driver's license fees due to shortened licensure periods permitted pursuant to Subsection A of Section 66-5-19 NMSA 1978 and for licensure periods authorized pursuant to the provisions of this section."

## **Chapter 79 Section 7 Laws 2016**

SECTION 7. Section 66-5-37 NMSA 1978 (being Laws 1978, Chapter 35, Section 259, as amended) is amended to read:

"66-5-37. UNLAWFUL USE OF LICENSE.--

A. It is a misdemeanor for any person to:

(1) display or cause or permit to be displayed or have in the person's possession any canceled, revoked or suspended driver's license or permit, commercial driver's license or permit or driving authorization card;

(2) lend the person's driver's license or permit, commercial driver's license or permit or driving authorization card to any other person or knowingly permit the use of the person's license, permit or driving authorization card by another;

(3) permit any unlawful use of the driver's license or permit, commercial driver's license or permit or driving authorization card issued to, or received by, the person;

(4) display or represent as one's own any driver's license or permit, commercial driver's license or permit or driving authorization card not issued to the person; or

(5) do any other act forbidden or fail to perform any other act required by Sections 66-5-1.1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act.

B. It is a felony for any person to:

(1) fail or refuse to surrender to the division upon its lawful demand any driver's license or permit, commercial driver's license or permit or driving authorization card that has been suspended, revoked or canceled;

(2) knowingly or willfully provide a false or fictitious name or document in any application for a driver's license or permit or commercial driver's license or permit or driving authorization card or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or

(3) induce or solicit another person or conspire with another person to violate this subsection."

## **Chapter 79 Section 8 Laws 2016**

SECTION 8. Section 66-5-47 NMSA 1978 (being Laws 1978, Chapter 35, Section 269, as amended) is amended to read:

"66-5-47. PHOTOGRAPHS.--The department shall reproduce the likeness of drivers, subject to the following conditions:

A. photographs or other reproductions of the likeness of all persons shall be a full-face or front-view digital photograph; and

B. photographs or other reproductions of the likeness of all persons under the age of twenty-one years shall have a printed legend, indicating that the person is under twenty-one, which shall be displayed in such manner as to be easily read by any person inspecting the license."

## **Chapter 79 Section 9 Laws 2016**

SECTION 9. Section 66-5-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS--APPLICATION.--

A. A person who does not have a valid New Mexico driver's license or driving authorization card may be issued an identification card by the department. An application for an identification card or renewal of an identification card shall be made upon a form furnished by the department. An application for an identification card shall contain the applicant's full legal name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant. The secretary shall establish by rule documents that may be accepted as evidence of the residency of the applicant. The department shall establish two distinct identification cards as provided in Section 66-5-405 NMSA 1978: an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes and an identification card not intended to be accepted by federal agencies for official federal purposes. A person applying for or renewing an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall provide documentation required by the federal government of the applicant's identity, date of birth, social

security number, if applicable, address of current residence and lawful status. The department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable. A person with lawful status may apply for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes or an identification card not intended to be accepted by federal agencies for official federal purposes. Every application for an identification card shall be signed by the applicant or the applicant's parent or guardian. The secretary may, for good cause, revoke or deny the issuance of an identification card.

B. An application by a foreign national with lawful status for an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

C. The department shall issue an identification card not intended to be accepted by federal agencies for official federal purposes to an applicant who is otherwise eligible but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that an identification card not intended to be accepted by federal agencies for official federal purposes is not valid for federal purposes. An applicant who does not provide proof of lawful status shall only apply for an identification card not intended to be accepted by federal agencies for official federal purposes. For an application for an identification card not intended to be accepted by federal agencies for official federal purposes, the secretary shall accept as proof of the applicant's identity and age:

(1) a social security number or an individual tax identification number;

(2) a passport from the applicant's country of citizenship or an identification card, issued by the consulate of Mexico in Albuquerque, New Mexico, the consulate general of Mexico in El Paso, Texas, or such other foreign consulate with

which the department has established a reliable method of verifying the authenticity of the identification card;

(3) a valid New Mexico license or identification card;

(4) a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo; or

(5) a document that the secretary has authorized.

D. The secretary may adopt rules providing for the proration of fees due to shortened validity periods authorized pursuant to the provision of this section.

E. Within the forms prescribed by the department for identification card applications, a space shall be provided to show whether the applicant is a donor as provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. A person applying for an identification card may indicate that person's status on the space provided on the application. The donor status indicated by the applicant shall be displayed on the identification card. The form and identification card shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence."

## **Chapter 79 Section 10 Laws 2016**

SECTION 10. Section 66-5-402 NMSA 1978 (being Laws 1978, Chapter 35, Section 329, as amended) is amended to read:

"66-5-402. PERSONS ELIGIBLE FOR IDENTIFICATION CARDS.--The department may issue an identification card only to a person who is a New Mexico resident and who does not have a valid New Mexico license."

## **Chapter 79 Section 11 Laws 2016**

SECTION 11. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended by Laws 2010, Chapter 42, Section 3 and by Laws 2010, Chapter 70, Section 3) is amended to read:

"66-5-403. EXPIRATION OF IDENTIFICATION CARDS--DURATION--RENEWAL.--

A. Except as provided in Subsections B through G of this section, every identification card shall be issued for a period not to exceed four years and shall expire on the last day of the month of the identified person's birth in the fourth year after the effective date of the identification card.

B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department, except the department shall not renew by mail or telephonic or electronic means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes if prohibited by federal law. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

C. At the option of the applicant for an identification card, a card may be issued for a period of eight years, provided that the applicant pays the amount required for an identification card issued for a term of eight years. An identification card issued pursuant to the provisions of this subsection shall expire eight years after the effective date of the identification card. The identification card may be renewed within ninety days prior to its expiration.

D. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes issued to a foreign national with lawful status shall expire on the earlier of:

(1) the last day of the month of the applicant's birth in the fourth year after the effective date of the identification card or eight years after the effective date of the identification card if the applicant opted for a period of eight years pursuant to Subsection C of this section; or

(2) the expiration date of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

E. An identification card not intended to be accepted by federal agencies for official federal purposes issued to an applicant who provides proof of lawful status shall expire on the last day of the month of the applicant's birth in the fourth year after the effective date of the identification card.

F. An identification card not intended to be accepted by federal agencies for official federal purposes issued to an applicant who does not provide proof of lawful status shall expire two years after the effective date of the identification card.

G. An identification card that is valid for two years issued pursuant to Subsection F of this section shall, upon renewal and for subsequent renewals, be valid for four years."

## **Chapter 79 Section 12 Laws 2016**



SECTION 12. Section 66-5-405 NMSA 1978 (being Laws 1978, Chapter 35, Section 332, as amended) is amended to read:

"66-5-405. CONTENTS OF CARD.--

A. An identification card shall bear the applicant's full legal name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph of the identification card holder; a unique identification card number; a date of issuance; an expiration date; a brief description of the identification card holder and the signature of the holder, and the identification card shall indicate donor status. All identification cards of persons under the age of twenty-one years shall have a printed legend indicating that the person is under twenty-one.

B. An identification card not intended to be accepted by federal agencies for official federal purposes shall bear the statement:

"STATE OF NEW MEXICO IDENTIFICATION

CARD NO. \_\_\_\_\_

This card is provided solely for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY. NOT FOR FEDERAL PURPOSES."

C. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes shall be distinguishable in color or design from an identification card not intended to be accepted by federal agencies for official federal purposes and shall bear the statement:

"STATE OF NEW MEXICO IDENTIFICATION

CARD NO. \_\_\_\_\_

This card is provided for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY."

D. An identification card that meets federal requirements to be accepted by federal agencies for official federal purposes issued to a foreign national with lawful status who fails to prove that the foreign national's lawful status will not expire prior to the date on which the identification card applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary and shall bear the word "TEMPORARY".

## **Chapter 79 Section 13 Laws 2016**

SECTION 13. Section 66-5-409 NMSA 1978 (being Laws 1991, Chapter 160, Section 13) is amended to read:

"66-5-409. UNLAWFUL USE OF IDENTIFICATION CARD.--

A. It is a misdemeanor for any person to:

- (1) use or possess an altered, forged or fictitious identification card;
- (2) alter or forge an identification card or make a fictitious identification card;
- (3) lend the person's identification card to any other person or to knowingly permit the use of the person's identification card by another;
- (4) display or represent as one's own any identification card not issued to the person; or
- (5) make or permit any unlawful use of the identification card issued to, or received or obtained by, the person.

B. It is a felony for any person to:

- (1) knowingly or willfully provide a false or fictitious name or document in any application for an identification card or knowingly make a false statement or conceal a material fact or otherwise commit a fraud in any such application; or
- (2) induce or solicit another person, or conspire with another person, to violate this subsection.

C. For the purposes of this section, "identification card" means an identification card issued by the department pursuant to Section 66-5-401 or 66-5-404 NMSA 1978."

## **Chapter 79 Section 14 Laws 2016**

SECTION 14. Section 66-8-1.1 NMSA 1978 (being Laws 2007, Chapter 319, Section 65) is amended to read:

"66-8-1.1. FRAUD RELATED TO THE ISSUANCE OF DOCUMENTS BY THE DEPARTMENT--PENALTIES.--

A. It is a felony for a department employee or private retail agent or other contractor of the department to:

(1) knowingly issue an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title to a person who is not lawfully entitled to issuance of that document;

(2) knowingly accept and use fraudulent documents as a basis for issuing an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title;

(3) knowingly alter a record of an identification card, driver's license, driving authorization card, vehicle or vessel registration or vehicle or vessel title without legal justification; or

(4) solicit or accept, directly or indirectly, anything of value with the intent to influence a decision or action on an identification card, a driver's license, a driving authorization card, a vehicle or vessel registration or a vehicle or vessel title.

B. A person convicted of violating this section is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

## **Chapter 79 Section 15 Laws 2016**

SECTION 15. A new section of the Motor Vehicle Code is enacted to read:

"PHOTOGRAPH--FINGERPRINTS.--

A. The taxation and revenue department shall take a full-face or front-view photograph and the fingerprints of an applicant for a driving authorization card or an identification card not intended to be accepted by federal agencies for official federal purposes who does not provide proof of lawful status and who does not possess a valid New Mexico license or identification card. The taxation and revenue department is authorized to submit fingerprint data to the department of public safety and obtain the criminal history record of an applicant from the department of public safety. The department of public safety is authorized to submit the fingerprint data to the federal bureau of investigation to conduct a background check of the applicant's criminal history pursuant to the federal bureau of investigation appropriation in Title 42 of Public Law 92-544.

B. An applicant is ineligible for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes and shall not be issued a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes if information provided pursuant to Subsection A of this section reveals that the:

(1) applicant has an outstanding valid criminal arrest warrant; or

(2) applicant's fingerprints are associated with any name, date of birth or social security number other than those provided by the applicant in the application for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes.

C. An applicant ineligible for a driving authorization card or identification card not intended to be accepted by federal agencies for official federal purposes pursuant to Subsection B of this section shall become eligible upon submission of satisfactory evidence that the basis for ineligibility has been resolved."

## **Chapter 79 Section 16 Laws 2016**

SECTION 16. A new section of the Motor Vehicle Code is enacted to read:

"ISSUANCE OF DOCUMENTS THAT MEET FEDERAL REQUIREMENTS TO BE ACCEPTED BY FEDERAL AGENCIES FOR OFFICIAL FEDERAL PURPOSES--REIMBURSEMENT.--

A. No later than six months from the effective date of this 2016 act, the department shall establish and begin to issue to qualified applicants licenses and identification cards that meet federal requirements to be accepted by federal agencies for official federal purposes. The department shall adopt the general design marking known as gold star pursuant to the *Department of Homeland Security REAL ID Security Plan Guidance Handbook* to implement the provisions of this subsection.

B. Provided that a person whose license or identification card expires on or after July 1, 2020 provides the required documentation and qualifies for the license or identification card issued pursuant to Subsection A of this section, the person may:

(1) exchange that person's valid New Mexico-issued license or identification card for a license or identification card issued pursuant to Subsection A of this section with an identical expiration date at no cost; or

(2) apply for a new license or identification card issued pursuant to Subsection A of this section.

C. The secretary shall adopt rules providing for the proration of a:

(1) refund for the remaining period that a person's license or identification card would have been valid; or

(2) credit for the remaining period that a person's license or identification card would have been valid toward the cost of a new license or identification card."

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House Bill 99, aa

Approved March 8, 2016

## **LAWS 2016, CHAPTER 80**

AN ACT

RELATING TO TRANSPORTATION; ENACTING THE TRANSPORTATION NETWORK COMPANY SERVICES ACT AND PROVIDING FOR ADMINISTRATION OF THE ACT BY THE PUBLIC REGULATION COMMISSION; CREATING A FUND; PROVIDING PENALTIES; MAKING AN APPROPRIATION.

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

### **Chapter 80 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--Sections 1 through 22 of this act may be cited as the "Transportation Network Company Services Act".

### **Chapter 80 Section 2 Laws 2016**

SECTION 2. DEFINITIONS.--As used in the Transportation Network Company Services Act:

A. "digital network" means an internet-supported application, software, program, website or system offered or utilized by a transportation network company that enables the prearrangement of transportation by passengers with transportation network company drivers;

B. "personal vehicle" means a vehicle that is used by a transportation network company driver and is:

(1) owned, leased or otherwise authorized for use by a transportation network company driver; and

(2) not a taxicab or other vehicle for hire;

C. "prearranged ride" means transportation provided by a transportation network company driver, which shall be deemed to commence when a driver accepts a transportation request through a digital network and continue until all passengers have exited from the personal vehicle at the destination requested by the rider. "Prearranged ride" does not include shared-expense vanpool or carpool arrangements or

transportation provided using a taxicab, limousine or other vehicle for hire pursuant to the Motor Carrier Act;

D. "transportation network company" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to the Transportation Network Company Services Act and lawfully operating in New Mexico that uses a digital network, but which shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network except where agreed to by written contract;

E. "transportation network company driver" or "driver" means an individual who:

(1) accepts a prearranged ride requested through a digital network and for a fee paid by a transportation network company rider to the transportation network company; and

(2) uses a personal vehicle to provide a prearranged ride through a digital network;

F. "transportation network company insurance" means a liability insurance policy that specifically covers a transportation network company driver's use of a transportation network company digital network; and

G. "transportation network company rider" or "rider" means a person who uses a digital network for a prearranged ride.

## **Chapter 80 Section 3 Laws 2016**

SECTION 3. NOT OTHER CARRIERS.--Transportation network companies and transportation network company drivers shall not be subject to the Motor Carrier Act or deemed to provide any transportation service as defined in the Motor Carrier Act. A transportation network company driver shall not be required to register a personal vehicle as a commercial vehicle or vehicle for hire.

## **Chapter 80 Section 4 Laws 2016**

SECTION 4. TRANSPORTATION NETWORK COMPANY PERMIT REQUIRED.--

A. A person shall not operate a transportation network company in New Mexico without first having obtained a permit from the public regulation commission.

B. A permit issued to a transportation network company by the public regulation commission shall be effective for one year.

C. The public regulation commission shall issue a permit to a transportation network company that meets the requirements set forth in the Transportation Network Company Services Act and any rules adopted by the commission pursuant to that act. The transportation network company shall pay an annual permit fee of ten thousand dollars (\$10,000) to the commission.

## **Chapter 80 Section 5 Laws 2016**

SECTION 5. FARE COLLECTED FOR SERVICES.--On behalf of a transportation network company driver, a transportation network company may charge a fare for the services provided to riders; provided that, if a fare is collected from a rider, the transportation network company shall disclose to the rider the fare calculation method, including the applicable rates and any fees, and shall provide an estimated fare before the rider enters a personal vehicle for a prearranged ride.

## **Chapter 80 Section 6 Laws 2016**

SECTION 6. IDENTIFICATION OF TRANSPORTATION NETWORK COMPANY VEHICLES AND DRIVERS.--A digital network shall display a current photograph of the transportation network company driver, and the license plate number, state of vehicle registration and make and model of the personal vehicle for a prearranged ride.

## **Chapter 80 Section 7 Laws 2016**

SECTION 7. ELECTRONIC RECEIPT.--Within twenty-four hours after the completion of a prearranged ride, a transportation network company shall electronically transmit a receipt to the rider that includes:

- A. the origin and destination addresses of the prearranged ride;
- B. the total time elapsed of and distance of the prearranged ride; and
- C. an itemization of the total fare paid, if any.

## **Chapter 80 Section 8 Laws 2016**

SECTION 8. FINANCIAL RESPONSIBILITY OF TRANSPORTATION NETWORK COMPANIES.--

A. Either the transportation network company driver, or the transportation network company on the driver's behalf, shall maintain primary automobile insurance that acknowledges that the driver is a transportation network company driver or otherwise uses a vehicle to transport riders for compensation and covers the driver:

(1) while the driver is logged on to the transportation network company's digital network; or

(2) while the driver is engaged in a prearranged ride.

B. While a transportation network company driver is logged on to the transportation network company's digital network, but is not engaged in a prearranged ride, the following minimum automobile insurance requirements shall apply: primary automobile liability insurance in the amount of at least fifty thousand dollars (\$50,000) for death and bodily injury per person, one hundred thousand dollars (\$100,000) for death and bodily injury per incident and twenty-five thousand dollars (\$25,000) for property damage and uninsured and underinsured motorist coverage to the extent required by Section 66-5-301 NMSA 1978.

C. While a transportation network company driver is engaged in a prearranged ride, the following minimum automobile insurance requirements shall apply:

(1) insurance of at least one million dollars (\$1,000,000) primary automobile liability for death, bodily injury and property damage; and

(2) uninsured and underinsured motorist coverage to the extent required by Section 66-5-301 NMSA 1978.

D. If insurance maintained by a transportation network company driver has lapsed or does not provide the minimum coverage required by this section, insurance maintained by a transportation network company shall provide the coverage required as the primary coverage.

E. Insurance required by this section shall be obtained from an insurer authorized to do business in the state or with a surplus lines insurer eligible pursuant to the New Mexico Insurance Code.

F. Insurance satisfying the requirements of this section shall be deemed to satisfy the insurance requirements of the Mandatory Financial Responsibility Act for a transportation network company driver while engaged in a prearranged ride or logged onto a digital network.

G. At all times while a transportation network company driver is logged onto a digital network, the driver shall possess digital and physical proof of coverage required by this section.

H. In the event of a motor vehicle accident involving a transportation network company driver, which occurs while the driver is logged on to a digital network or engaged in a prearranged ride, the driver shall provide the required proof of insurance coverage to all passengers, other drivers, injured persons, automobile



insurers and investigating law enforcement officers. A transportation network company driver shall also disclose whether the driver was logged on to a digital network, or on a prearranged ride, at the time of an accident.

## **Chapter 80 Section 9 Laws 2016**

SECTION 9. INSURANCE COVERAGE DISCLOSURES.--A transportation network company shall disclose in writing to its transportation network company drivers:

A. the insurance coverage that the transportation network company provides the transportation network company driver while the driver is logged on to a digital network, including the types of coverage and the limits for each coverage; and

B. that the transportation network company driver's insurance policy might exclude coverage while the driver is logged on to the transportation network company's digital network or while engaged in a prearranged ride.

## **Chapter 80 Section 10 Laws 2016**

SECTION 10. AUTOMOBILE INSURANCE PROVISIONS.--

A. Insurers that write automobile insurance in New Mexico may exclude any part or all coverage of and the duty to defend and indemnify an owner or operator of a personal vehicle for any loss or injury that occurs while a driver is logged on to a digital network or while engaged in a prearranged ride. Such exclusions shall apply notwithstanding requirements of the Mandatory Financial Responsibility Act.

B. In a claims coverage investigation, a transportation network company and any insurer providing coverage for the transportation network company driver shall disclose the precise times that a transportation network company driver logged on and off of the transportation network company's digital network in the twelve-hour period immediately preceding an accident, and in the twelve-hour period immediately following the accident, and disclose all coverage, exclusions and policy limits provided for all insurance maintained under the Transportation Network Company Services Act.

C. If a transportation network company's insurer makes a payment for a claim covered under comprehensive coverage or collision coverage, and for property damage to a vehicle subject to a finance lien, the transportation network company shall cause its insurer to issue the payment directly to the business repairing the vehicle or jointly to the owner of the vehicle and any lienholder.

## **Chapter 80 Section 11 Laws 2016**

SECTION 11. ZERO TOLERANCE FOR DRUG OR ALCOHOL USE.--

A. A transportation network company shall implement and enforce a zero-tolerance policy regarding drug and alcohol use by transportation network company drivers. The zero-tolerance policy shall prohibit any use or impairment due to intoxicating drugs or liquor while a transportation network company driver is providing prearranged rides or is logged on to the transportation network company's digital network.

B. A transportation network company shall publish on its website notice of its zero-tolerance policy, as well as procedures for a rider to report a complaint about a driver suspected to have been under the influence of illegal drugs or alcohol during a prearranged ride.

C. A transportation network company shall immediately conduct an investigation into every reported complaint of violation of its zero-tolerance policy, and the policy shall include procedures for suspension or termination of transportation network company drivers.

D. A transportation network company shall maintain records relevant to the enforcement of the requirements of this section for a period of at least four years from the date that a rider complaint is received by the transportation network company.

## **Chapter 80 Section 12 Laws 2016**

### **SECTION 12. TRANSPORTATION NETWORK COMPANY DRIVER REQUIREMENTS.--**

A. Before allowing a transportation network company driver to accept prearranged ride requests through a transportation network company's digital network:

(1) the prospective driver shall submit an application to the transportation network company that includes the individual's address, age, driver's license number and state, driving history, motor vehicle registration and proof of the insurance required;

(2) the transportation network company shall obtain a local and national criminal background check for the prospective driver that shall include:

(a) multistate or multi-jurisdiction criminal records locator or other similar commercial nationwide database with validation and primary source search; and

(b) a national sex offender registry; and

(3) the transportation network company shall obtain and review a driving history research report for the prospective driver.

B. A transportation network company shall not permit a person to act as a transportation network company driver who:

(1) has had more than three moving violations in the preceding three-year period or one violation in the preceding three-year period involving any attempt to evade law enforcement, reckless driving or driving on a suspended or revoked license;

(2) has been convicted within the past seven years of:

(a) a felony;

(b) misdemeanor driving under the influence, reckless driving, leaving the scene of an accident or any other driving-related offense or any misdemeanor violent offense or sexual offense; or

(c) more than three misdemeanors of any kind;

(3) is identified by a national sex offender registry;

(4) does not possess a valid license;

(5) does not possess proof of registration for the motor vehicle used to provide prearranged rides;

(6) does not possess proof of automobile liability insurance for the motor vehicle used to provide prearranged rides; or

(7) is not at least twenty-one years old.

C. A transportation network company driver shall not provide prearranged rides for more than twelve hours out of any twenty-four-hour period.

## **Chapter 80 Section 13 Laws 2016**

### **SECTION 13. VEHICLE SAFETY.--**

A. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the transportation network company if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(2) has fewer than four doors; or

(3) is designed to carry more than eight passengers, including the driver.

B. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide prearranged rides and not less than once each year thereafter.

C. The public regulation commission shall promulgate rules and regulations setting forth the requirements of annual inspection of a vehicle used by a transportation network company driver while logged on to a digital network or engaged in a prearranged ride.

### **Chapter 80 Section 14 Laws 2016**

SECTION 14. NO STREET HAILS.--A transportation network company driver shall not solicit or accept street hails.

### **Chapter 80 Section 15 Laws 2016**

SECTION 15. NO CASH TRIPS.--A transportation network company shall adopt and enforce a policy prohibiting solicitation or acceptance of cash payments from riders. Any payment for prearranged rides shall be made only electronically by a digital network.

### **Chapter 80 Section 16 Laws 2016**

SECTION 16. NONDISCRIMINATION--ACCESSIBILITY.--

A. A transportation network company shall adopt a written policy of nondiscrimination on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity with respect to transportation network company drivers, riders and potential riders and shall notify transportation network company drivers of the policy.

B. Transportation network company drivers shall comply with all applicable laws regarding nondiscrimination against transportation network company drivers, riders or potential riders on the basis of destination, race, color, national origin, religious belief or affiliation, sex, disability, age, sexual orientation or gender identity.

C. Transportation network company drivers shall comply with all applicable laws relating to accommodation of service animals.

D. A transportation network company shall not impose additional charges for providing services to persons with physical disabilities.

E. A transportation network company shall provide riders an opportunity to indicate whether they require a wheelchair-accessible vehicle. If a transportation network company cannot arrange a wheelchair-accessible prearranged ride in any instance, it shall direct the rider to an alternate provider of wheelchair-accessible service, if available.

## **Chapter 80 Section 17 Laws 2016**

### **SECTION 17. RECORDS.--**

A. A transportation network company shall maintain:

(1) individual prearranged ride records for at least four years from the date each ride was provided; and

(2) individual records of transportation network company drivers for at least four years after the driver's relationship with the transportation network company has ended.

B. A transportation network company and a transportation network company driver shall not use or disclose a transportation network company rider's personal identifiable information to a third party unless the rider consents; disclosure is required by court order; or disclosure is required to investigate violations of the Transportation Network Company Services Act.

## **Chapter 80 Section 18 Laws 2016**

### **SECTION 18. CONTROLLING AUTHORITY.--**

A. No municipality or other local entity may impose a tax on or require a license for a transportation network company, a transportation network company driver or a vehicle used by a transportation network company driver where a tax or license relates to providing prearranged rides or subjects a transportation network company to the municipality's or other local entity's rate, tax, license, entry, operational or other requirements, except for generally applicable business licenses or taxes.

B. Nothing in this section prohibits an airport with more than one million annual enplanements, as reported by the federal aviation administration in the previous calendar year, from requiring a transportation network company to establish fees and other requirements to operate at that airport.

## **Chapter 80 Section 19 Laws 2016**

**SECTION 19. TRANSPORTATION DIVISION FUND CREATED--ASSESSMENT AND COLLECTION OF FEES.--**

A. The "transportation division fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, administrative fines collected under that act, appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.

B. The transportation division fund shall be administered by the public regulation commission. Money in the fund is appropriated to the commission to carry out its duties pursuant to the provisions of the Transportation Network Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the commission for administrative purposes.

C. Payments from the transportation division fund shall be made upon vouchers issued and signed by the director of the administrative services division of the public regulation commission or the director's authorized representative upon warrants drawn by the secretary of finance and administration.

## **Chapter 80 Section 20 Laws 2016**

### **SECTION 20. RECORDS PURSUANT TO RULES OF THE PUBLIC REGULATION COMMISSION.--**

A. A transportation network company holding a permit issued by the public regulation commission shall maintain the records required pursuant to the Transportation Network Company Services Act to be collected by the transportation network company, including records regarding transportation network company drivers.

B. In response to a specific complaint, the public regulation commission, its employees or its duly authorized agents may inspect those records held by a transportation network company for the investigation and resolution of the complaint.

C. No more than semiannually and as determined by the public regulation commission, the commission, its employees or its duly authorized agents may, in a mutually agreed setting, inspect those records held by a transportation network company whose review is necessary to ensure public safety; provided that such review shall be on an audit rather than a comprehensive basis.

D. Any proprietary records obtained by the public regulation commission pursuant to this section shall not be subject to disclosure by the commission.

## **Chapter 80 Section 21 Laws 2016**

### **SECTION 21. ADMINISTRATIVE PENALTIES.--**

A. If the public regulation commission finds after investigation that a provision of the Transportation Network Company Services Act or an order or rule of the commission is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the public regulation commission may assess an administrative fine of not more than one thousand dollars (\$1,000) for each violation of a provision of the Transportation Network Company Services Act or of a lawful rule or order of the commission. In the case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. All penalties accruing under the Transportation Network Company Services Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution.

## **Chapter 80 Section 22 Laws 2016**

### SECTION 22. INVOLUNTARY SUSPENSION AND REVOCATION.--

A. The public regulation commission shall immediately suspend, without notice or a hearing, the permit of a transportation network company that:

(1) does not continuously maintain the insurance coverage prescribed by the Transportation Network Company Services Act;

(2) does not pay the fees owed by the transportation network company and the transportation network company's drivers; or

(3) operates in a manner that poses an immediate or imminent threat to public safety.

B. Once suspended, the transportation network company may apply for reinstatement by requesting a public hearing before the public regulation commission and shall establish that the basis for the suspension has been corrected.

## **Chapter 80 Section 23 Laws 2016**

SECTION 23. Section 66-5-205.3 NMSA 1978 (being Laws 2003, Chapter 171, Section 1) is amended to read:

### "66-5-205.3. MOTOR VEHICLE INSURANCE POLICY--PROCEDURES.--

A. A motor vehicle insurance policy shall:

(1) designate by explicit description or by appropriate reference all motor vehicles to which coverage is to be granted; and

(2) insure the person named in the policy and a person using any such motor vehicle with the express or implied permission of the named insured against loss from the liability imposed by law for damages arising out of the ownership, maintenance or use of the motor vehicle within a jurisdiction, subject to the requirement to provide evidence of financial responsibility pursuant to the Mandatory Financial Responsibility Act.

B. A motor vehicle insurance policy shall insure a person named as insured against loss from the liability imposed upon the person by law for damages arising out of the use, with the express or implied permission of the owner or person in lawful possession, of a motor vehicle that the insured person does not own. The policy shall insure the person within the same territorial limits and in compliance with the requirement of evidence of financial responsibility as set forth in the Mandatory Financial Responsibility Act with respect to a motor vehicle insurance policy. A motor vehicle liability policy in which the described vehicle is a private passenger car is not required to provide liability insurance coverage for a non-owned truck tractor designed to pull a trailer or semitrailer.

C. Permitted exceptions to coverage otherwise required by Subsections A and B of this section may include the following if excluded by the motor vehicle insurance policy:

(1) an automobile business exclusion;

(2) a furnished for regular use exclusion;

(3) a vehicle rented for business use exclusion if the exclusion is contained in the motor vehicle insurance policy and is enforceable;

(4) an exclusion for any liability of the United States government or its agencies when the provisions of the Federal Tort Claims Act apply;

(5) an exclusion for liability of the insured under any workers' compensation law;

(6) an exclusion for damages to property owned by, rented to, in the charge of or transported by an insured; provided, however, that this exclusion shall not apply to damages to a residence or private garage rented by an insured; and

(7) an exclusion to apply when a vehicle is rented to others or used to carry persons for a charge, including when a vehicle is being used while logged on to a transportation network company's digital network or while a driver provides a



prearranged ride; provided, however, that this exclusion shall not apply to use on a shared expense basis.

D. The motor vehicle insurance policy shall state the name and address of the insured, the coverage afforded by the policy, the premium charged, the policy period and the limits of liability. The policy shall also contain an agreement or endorsement that states that the insurance is:

(1) provided in accordance with the coverage defined in the Mandatory Financial Responsibility Act regarding bodily injury and death or property damage or both; and

(2) subject to all the provisions of that act.

E. Every motor vehicle insurance policy shall be subject to the following provisions, which may be contained in the policy:

(1) the policy may not be canceled or annulled as to the liability of the insurance carrier with respect to the insurance required by the Mandatory Financial Responsibility Act by an agreement between the insurance carrier and the insured after the occurrence of the injury or damage;

(2) the satisfaction by the insured of a judgment for injury or damage shall not be a condition precedent to the right or duty of the insurance carrier to pay on account of injury or damage;

(3) the insurance carrier has the right to settle a claim covered by the policy. If the settlement is made in good faith, the amount of the settlement is deductible from the limits of liability specified in the Mandatory Financial Responsibility Act; and

(4) the policy, the declarations page, the written application and a rider or an endorsement that does not conflict with the provisions of the Mandatory Financial Responsibility Act constitute the entire contract between the parties.

F. A binder issued pending the issuance of a motor vehicle insurance policy is deemed to fulfill the requirements for the policy."

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SJC/House Bill 168 & Senate Bill 254, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 81**

## AN ACT

RELATING TO CAPITAL EXPENDITURES; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; CLARIFYING CONDITIONS FOR THE ISSUANCE OF BONDS; ESTABLISHING CONDITIONS FOR THE EXPENDITURE OF SEVERANCE TAX BOND PROCEEDS; 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 81 Section 1 Laws 2016**

#### SECTION 1. SEVERANCE TAX BONDS--AUTHORIZATIONS-- APPROPRIATION OF PROCEEDS.--

A. The state board of finance may issue and sell severance tax bonds in compliance with the Severance Tax Bonding Act in an amount not to exceed the total of the amounts authorized for purposes specified in this act. The state board of finance shall schedule the issuance and sale of the bonds in the most expeditious and economical manner possible upon a finding by the board that the project has been developed sufficiently to justify the issuance and that the project can proceed to contract within a reasonable time. The state board of finance shall further take the appropriate steps necessary to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated for the purposes specified in this act.

B. The agencies named in this act shall certify to the state board of finance when the money from the proceeds of the severance tax bonds appropriated in this section is needed for the purposes specified in the applicable section of this act. If an agency has not certified the need for severance tax bond proceeds for a particular project by the end of fiscal year 2018, 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 2020; and

(2) all remaining balances from the proceeds of severance tax bonds appropriated for a project in this act shall revert to the severance tax bonding fund three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

E. Except for appropriations to the capital program fund, money from severance tax bond proceeds provided pursuant to this act shall not be used to pay indirect project costs.

F. Except for a project that was originally funded using a tax-exempt loan or bond issue, a project involving repayment of debt previously incurred shall be funded through the issuance of taxable severance tax bonds with a term that does not extend beyond the fiscal year in which they are issued.

G. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 81 Section 2 Laws 2016**

### **SECTION 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS-- LIMITATIONS--REVERSIONS.--**

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation made in this act from the general fund or other state funds shall revert no later than the following dates:

(a) for a project for which an appropriation was made to match federal grants, six months after completion of the project;

(b) for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(c) for any other project for which an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2020; and

(2) all remaining balances from an appropriation made in this act for a project shall revert three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

C. Except as provided in Subsection E of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.

D. Except as provided in Subsection E of this section, the balance of an appropriation made from other state funds shall revert in the time frame set forth in Subsection A of this section to the originating fund.

E. The balance of an appropriation made from the general fund or other state funds to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

F. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

## **Chapter 81 Section 3 Laws 2016**

~~[SECTION 3. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS PROJECT-SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the administrative office of the district attorneys that the need exists for the issuance of the bonds, twenty thousand dollars (\$20,000) is appropriated to the administrative office of the district attorneys to purchase and install information~~

technology, including related equipment, furniture and infrastructure, and to purchase and equip vehicles for district attorney offices statewide.] *LINE-ITEM VETO*

## **Chapter 81 Section 4 Laws 2016**

SECTION 4. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the aging and long-term services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the aging and long-term services department for the following purposes:

~~[1. thirty thousand dollars (\$30,000) to plan, design, construct and equip an addition to the Village of Tijeras senior center in Tijeras in Bernalillo county;] *LINE-ITEM VETO*~~

2. eighty thousand dollars (\$80,000) to plan, design, construct, equip, purchase and install improvements to senior centers in Las Cruces in Dona Ana county;

~~[3. one hundred eighteen thousand five hundred dollars (\$118,500) to plan, design, construct, furnish and equip a senior center in Wagon Mound in Mora county;] *LINE-ITEM VETO*~~

4. one hundred twenty-four thousand dollars (\$124,000) to plan, design, construct, equip and furnish a senior center in the Upper Fruitland chapter of the Navajo Nation in San Juan county[;] *LINE-ITEM VETO*

~~[5. twenty thousand dollars (\$20,000) for improvements to the facility to address code compliance issues at the Picuris senior center in the Pueblo of Picuris in Taos county;~~

~~6. seventy-five thousand dollars (\$75,000) to plan, design and construct a senior center in the Red Rock chapter of the Navajo Nation in McKinley county; and~~

~~7. five thousand dollars (\$5,000) to purchase and install meals equipment at the Bosque Farms senior meal site in Bosque Farms in Valencia county.] *LINE-ITEM VETO*~~

## **Chapter 81 Section 5 Laws 2016**

~~[SECTION 5. BERNALILLO COUNTY METROPOLITAN COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Bernalillo county metropolitan court that the need exists for the issuance of the bonds, thirty thousand dollars (\$30,000) is appropriated to the Bernalillo county metropolitan court to purchase and install a video surveillance system and to plan, design, construct, furnish and equip the fourth floor of the Bernalillo county metropolitan courthouse in Albuquerque in Bernalillo county.] *LINE-ITEM VETO*~~

## **Chapter 81 Section 6 Laws 2016**

**SECTION 6. BORDER AUTHORITY PROJECTS--SEVERANCE TAX BONDS.--** Pursuant to the provisions of Section 1 of this act, upon certification by the border authority that the need exists for the issuance of the bonds, the following amounts are appropriated to the border authority for the following purposes:

1. five hundred thousand dollars (\$500,000) for site improvements and to plan, design, construct, expand and renovate a conference room at the border authority building in Santa Teresa in Dona Ana county; and

2. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and furnish a visitor's center at the border authority building in Santa Teresa in Dona Ana county.

## **Chapter 81 Section 7 Laws 2016**

**SECTION 7. CAPITAL PROGRAM FUND PROJECTS--SEVERANCE TAX BONDS.--** Pursuant to the provisions of Section 1 of this act, upon certification by the facilities management division of the general services department that the need exists for the issuance of the bonds, the following amounts are appropriated to the capital program fund for the following purposes:

1. five hundred thousand dollars (\$500,000) to purchase and install furnishings, fixtures, equipment and related infrastructure for a child wellness center in Albuquerque in Bernalillo county;

2. two hundred eighty thousand dollars (\$280,000) to plan, design, construct and renovate facilities, including the purchase and installation of security improvements, at the Camino Nuevo youth center at the youth diagnostic and development center in Albuquerque in Bernalillo county;

3. seven hundred fifty thousand dollars (\$750,000) to plan, design, purchase and install security and code compliance improvements and to convert the existing swimming pool into a multi-use facility at the youth diagnostic and development center in Albuquerque in Bernalillo county;

4. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, purchase and install new domestic hot water boilers and to improve the Manzano and Sandia cottages at the youth diagnostic and development center in Albuquerque in Bernalillo county;

5. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip the state police district office in Roswell in Chaves county;

6. eighty-five thousand dollars (\$85,000) to plan, design, purchase and install a fire alarm system at the reintegration center in Eagle Nest in Colfax county;

7. four hundred thousand dollars (\$400,000) for site improvements and to plan, design, purchase and install heating, ventilation and air conditioning units, electrical system improvements, roofs and curbs at the J. Paul Taylor center in Las Cruces in Dona Ana county;

8. five million dollars (\$5,000,000) to plan, design, construct, furnish and equip phase 3 of the new Meadows building and for infrastructure improvements at the New Mexico behavioral health institute in Las Vegas in San Miguel county;

9. one million five hundred thousand dollars (\$1,500,000) to plan, design, demolish, construct, renovate, improve, furnish and equip department of health facilities statewide, including the purchase and installation of equipment for the scientific laboratory division in Albuquerque in Bernalillo county and for repairs to the therapeutic pool at the Los Lunas campus in Valencia county;

10. five hundred thousand dollars (\$500,000) to plan and design a new evidence and records facility and crime laboratory, including expansion of the existing crime laboratory, at the department of public safety headquarters in Santa Fe in Santa Fe county;

11. seven million dollars (\$7,000,000) to plan, design, construct, renovate, repair, purchase, install, equip and make other infrastructure improvements, including security upgrades and the design and replacement of heating, ventilation and air conditioning systems, at correctional facilities statewide;

12. two million dollars (\$2,000,000) to purchase easements and to plan, design, construct, equip and furnish the relocation of the Texico port of entry in Texico in Curry county;

13. four million dollars (\$4,000,000) to plan, design, construct, renovate, furnish and equip facilities, including infrastructure upgrades, demolition and abatement, at state-owned facilities statewide; and

14. eighty-five thousand dollars (\$85,000) to plan, design and construct improvements to the medical examination room at the Henry Perea building in Los Lunas in Valencia county.

## **Chapter 81 Section 8 Laws 2016**

SECTION 8. CULTURAL AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the cultural affairs department that the need exists for the issuance of the bonds, the

following amounts are appropriated to the cultural affairs department for the following purposes:

1. two hundred twenty-nine thousand dollars (\$229,000) to plan, design, construct and install a memorial to gun violence victims in Albuquerque in Bernalillo county;

2. six hundred thirty-nine thousand five hundred dollars (\$639,500) to plan, design, construct, renovate, furnish and equip the national Hispanic cultural center annex and site, including parking lot improvements, in Albuquerque in Bernalillo county;

3. two hundred seventy-seven thousand five hundred dollars (\$277,500) to plan, design, construct, equip, improve and renovate the facilities, exhibits and site at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;

4. fifty thousand dollars (\$50,000) to plan, design, construct, landscape and improve the Bosque Redondo memorial at the Fort Sumner historic site in De Baca county;

5. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the Taylor-Barela-Reynolds-Mesilla historic site, including the purchase and installation of security upgrades and a heating, ventilation and air conditioning system, in Mesilla in Dona Ana county;

6. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and preserve the post ruins at the Fort Selden historic site in Radium Springs in Dona Ana county;

7. one hundred seventy-five thousand dollars (\$175,000) to plan, design and renovate the restrooms, including accessibility improvements, at the New Mexico museum of space history in Alamogordo in Otero county;

8. seventy thousand dollars (\$70,000) to plan, design and construct the ruins footprint at the Coronado historic site in Sandoval county;

9. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and improve the exhibits and facility at the museum of Indian arts and culture in Santa Fe in Santa Fe county;

10. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct and renovate the facilities and courtyard at the New Mexico museum of art, including fire protection system improvements, information technology and related equipment, furniture and infrastructure, in Santa Fe in Santa Fe county;



~~[11. forty thousand dollars (\$40,000) to restore the mural on the records center building in Santa Fe in Santa Fe county;] *LINE-ITEM VETO*~~

12. four hundred seventeen thousand one hundred seventy-five dollars (\$417,175) to plan, design, construct, renovate, furnish, equip and improve the palace of the governors state history museum facility, exhibits and site in Santa Fe in Santa Fe county;

13. thirteen thousand dollars (\$13,000) to purchase equipment for preserving and digitizing films, photographs and collections at the palace of the governors photo archives at the New Mexico history museum in Santa Fe in Santa Fe county;

14. sixty-two thousand dollars (\$62,000) to purchase and install furniture, equipment, fixtures and related infrastructure and to plan, design and construct sidewalks at the children's museum in Santa Fe in Santa Fe county;

15. one hundred eleven thousand dollars (\$111,000) to plan, design, equip and construct improvements, including a fire suppression system, a security system, drainage and accessibility, for the center for contemporary arts in Santa Fe in Santa Fe county;

16. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the museum hill campus in Santa Fe in Santa Fe county; and

17. two million dollars (\$2,000,000) to plan, design, construct, renovate, purchase, install, furnish, equip and upgrade exhibits, facilities, sites and infrastructure at museums, historic sites and cultural facilities statewide.

## **Chapter 81 Section 9 Laws 2016**

**SECTION 9. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECTS--SEVERANCE TAX BONDS.**--Pursuant to the provisions of Section 1 of this act, upon certification by the Cumbres and Toltec scenic railroad commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the Cumbres and Toltec scenic railroad commission for the following purposes:

1. three hundred thousand dollars (\$300,000) for locomotive and boiler upgrades and rehabilitation to comply with federal railroad administration standards for the Cumbres and Toltec scenic railroad operating between New Mexico and Colorado; and

2. three hundred fifteen thousand dollars (\$315,000) for track rehabilitation and for related infrastructure improvements to the Cumbres and Toltec scenic railroad operating between New Mexico and Colorado.

## **Chapter 81 Section 10 Laws 2016**

~~[SECTION 10. FIRST JUDICIAL DISTRICT COURT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the first judicial district court that the need exists for the issuance of the bonds, the following amounts are appropriated to the first judicial district court for the following purposes:~~

~~1. sixty seven thousand two hundred dollars (\$67,200) to purchase and install an integrated electronic docket display system, including information technology and related equipment, furniture and infrastructure, for the first judicial district court in Santa Fe, Los Alamos and Rio Arriba counties; and~~

~~2. seventy thousand dollars (\$70,000) to purchase and equip vehicles for the first judicial district court in Santa Fe in Santa Fe county.] *LINE-ITEM VETO*~~

## **Chapter 81 Section 11 Laws 2016**

SECTION 11. SECOND JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the second judicial district court that the need exists for the issuance of the bonds, eighty-two thousand five hundred dollars (\$82,500) is appropriated to the second judicial district court to purchase and install video cameras in public and inmate transport elevators at the second judicial district court in Albuquerque in Bernalillo county.

## **Chapter 81 Section 12 Laws 2016**

~~[SECTION 12. FOURTH JUDICIAL DISTRICT COURT PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the fourth judicial district court that the need exists for the issuance of the bonds, eight thousand dollars (\$8,000) is appropriated to the fourth judicial district court to purchase furniture for the fourth judicial district courthouse in Santa Rosa in Guadalupe county.] *LINE-ITEM VETO*~~

## **Chapter 81 Section 13 Laws 2016**

SECTION 13. ECONOMIC DEVELOPMENT DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the economic development department that the need exists for the issuance of the bonds, the following amounts are appropriated to the economic development department for the following purposes:

1. two hundred ten thousand dollars (\$210,000) to plan, design, construct and renovate a former church building as a multipurpose events center for a

cooperative economic development project between Innovate ABQ, incorporated, and the university of New Mexico in Albuquerque in Bernalillo county;

2. six million dollars (\$6,000,000) for economic development projects statewide pursuant to the Local Economic Development Act; and

3. five hundred thousand dollars (\$500,000) to plan, design and construct infrastructure improvements in mainstreet and local arts and cultural districts statewide.

## **Chapter 81 Section 14 Laws 2016**

SECTION 14. PUBLIC EDUCATION DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the public education department that the need exists for the issuance of the bonds, the following amounts are appropriated to the public education department for the following purposes:

1. two hundred ten thousand dollars (\$210,000) to plan, design and construct a facility for the Albuquerque sign language academy in Albuquerque in Bernalillo county;

2. twenty-two thousand dollars (\$22,000) for asbestos and lead paint abatement and to plan, design, construct and renovate the basement at Amy Biehl high school in Albuquerque in Bernalillo county;

3. thirty-seven thousand two hundred fifty dollars (\$37,250) to plan, design, construct and replace an elevator at Amy Biehl high school in Albuquerque in Bernalillo county;

4. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Amy Biehl high school in Albuquerque in Bernalillo county;

5. sixty thousand two hundred fifty dollars (\$60,250) to plan, design, construct, purchase and install landscaping, facilities, electrical and security improvements, including the purchase and installation of storage, information technology and related equipment, furniture and infrastructure, at Cesar Chavez community school in Albuquerque in Bernalillo county;

6. twenty-six thousand two hundred fifty dollars (\$26,250) to purchase and install information technology, including related equipment, furniture and infrastructure, at Cien Aguas international school in Albuquerque in Bernalillo county;

7. one hundred thirty thousand dollars (\$130,000) to plan, design and construct phase 1 of a multipurpose sports and performance center for Cottonwood classical preparatory school in Albuquerque in Bernalillo county;

8. eighty-seven thousand five hundred dollars (\$87,500) to plan, design, construct, purchase and install grounds, facilities, electrical and security improvements, including the purchase and installation of storage, information technology and related equipment, furniture and infrastructure, at Gilbert L. Sena charter high school in Albuquerque in Bernalillo county;

9. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the purchase and installation of fencing, information technology and related equipment, furniture and infrastructure, at La Promesa early learning center in Albuquerque in Bernalillo county;

~~[10. sixty thousand dollars (\$60,000) to complete a lease-to-purchase agreement for a building for the Media Arts collaborative charter school in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

11. seventy-six thousand two hundred fifty dollars (\$76,250) to purchase and install information technology, including related equipment, furniture and infrastructure, at Media Arts collaborative charter school in Albuquerque in Bernalillo county;

12. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mission Achievement and Success charter school in Albuquerque in Bernalillo county;

13. fifty thousand dollars (\$50,000) to purchase and install library resources for the Mission Achievement and Success charter school in Albuquerque in Bernalillo county;

14. seventy-two thousand five hundred dollars (\$72,500) to purchase and equip a bus for the Montessori elementary school in Albuquerque in Bernalillo county;

15. nineteen thousand dollars (\$19,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mountain Mahogany community school in Albuquerque in Bernalillo county;

~~[16. twenty-one thousand two hundred fifty dollars (\$21,250) to plan, design, construct, renovate, equip and furnish the buildings and grounds at the student athlete headquarters, including the purchase and installation of equipment, information technology and related equipment, furniture and infrastructure, in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

17. eighty-five thousand dollars (\$85,000) to acquire land for and to plan, design, construct, equip and furnish the South Valley preparatory school in Albuquerque in Bernalillo county;

18. seventy-five thousand dollars (\$75,000) to purchase and install equipment and furniture at Technology Leadership high school in Albuquerque in Bernalillo county;

19. ninety-six thousand dollars (\$96,000) to purchase and install [~~music and dance equipment and~~] information technology, including related equipment, furniture and infrastructure, for Tierra Adentro charter school in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

20. eighty-three thousand seven hundred fifty dollars (\$83,750) to purchase a facility and to plan, design, construct, renovate, furnish and equip the buildings and grounds, including the purchase and installation of information technology and related equipment, furniture and infrastructure, at the Twenty-First Century public academy charter school in the Albuquerque public school district in Bernalillo county;

21. twenty thousand dollars (\$20,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

22. eighty-five thousand dollars (\$85,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Alameda elementary school in the Albuquerque public school district in Bernalillo county;

23. seventy-four thousand three hundred dollars (\$74,300) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

24. one hundred eighteen thousand dollars (\$118,000) to plan, design, construct, improve and equip the facilities and gymnasiums, including the purchase and installation of related equipment, furniture and marksmanship target ranges, for the junior reserve officers training corps program in the Albuquerque public school district in Bernalillo county;

25. sixty thousand dollars (\$60,000) to purchase and equip a vehicle for the junior reserve officer training corps program in the Albuquerque public school district in Bernalillo county;

~~[26. ten thousand dollars (\$10,000) to purchase, equip, install and frame sports memorabilia at the Nuseña community stadium hall of fame in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETO*~~

27. one hundred thirty-five thousand nine hundred forty-five dollars (\$135,945) to plan, design, construct, renovate, equip and improve the performing arts centers, including the purchase and installation of stage curtains, seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

28. sixty thousand dollars (\$60,000) to plan, design, purchase, construct and install information technology, including related equipment, furniture and infrastructure, at Alice King community school in the Albuquerque public school district in Bernalillo county;

29. twenty-one thousand five hundred dollars (\$21,500) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

30. twenty thousand dollars (\$20,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

31. eighty-four thousand dollars (\$84,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Arroyo Del Oso elementary school in the Albuquerque public school district in Bernalillo county;

32. twenty-five thousand dollars (\$25,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

33. forty thousand dollars (\$40,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Atrisco Heritage high school in the Albuquerque public school district in Bernalillo county;

34. twenty-five thousand five hundred dollars (\$25,500) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyard and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at the Autism center in the Albuquerque public school district in Bernalillo county;

35. fifty-five thousand nine hundred forty-five dollars (\$55,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

36. fifteen thousand dollars (\$15,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

37. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

38. thirty-five thousand dollars (\$35,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

39. forty thousand dollars (\$40,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball and tennis court areas, including the purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

40. twenty-five thousand dollars (\$25,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at the Career Enrichment center and Early College academy in the Albuquerque public school district in Bernalillo county;

41. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and landscape the grounds, courtyard, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

42. forty-three thousand dollars (\$43,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

43. ten thousand dollars (\$10,000) to plan, design, construct, improve, renovate, furnish and equip buildings and facilities, including the purchase and installation of related equipment, infrastructure, fixtures and furniture, at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

44. twenty thousand dollars (\$20,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

45. fifty-five thousand dollars (\$55,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball and tennis court areas, including the purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Cibola high school in the Albuquerque public school district in Bernalillo county;

46. one hundred thousand dollars (\$100,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Cleveland middle school in the Albuquerque public school district in Bernalillo county;

47. forty-seven thousand dollars (\$47,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Cochiti elementary school in the Albuquerque public school district in Bernalillo county;

~~48. six thousand two hundred fifty dollars (\$6,250) to purchase and install information technology, including related equipment, furniture and infrastructure, at College and Career high school in the Albuquerque public school district in Bernalillo county;] *LINE-ITEM VETO*~~

49. twenty-five thousand dollars (\$25,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Collet Park elementary school in the Albuquerque public school district in Bernalillo county;

50. fifty thousand dollars (\$50,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Comanche elementary school in the Albuquerque public school district in Bernalillo county;

51. fifty thousand dollars (\$50,000) to plan, design, renovate, construct, equip and improve the arts and music buildings, facilities and rooms, including the



purchase and installation of related equipment, information technology, equipment storage units, furniture and infrastructure, at Del Norte high school in the Albuquerque public school district in Bernalillo county;

52. seventy-eight thousand dollars (\$78,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

53. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Desert Ridge middle school in the Albuquerque public school district in Bernalillo county;

54. forty thousand dollars (\$40,000) to plan, design and construct improvements to the grounds, facilities and electrical system, including landscaping and the purchase and installation of security systems, information technology and related equipment, furniture and infrastructure, at the Digital Arts and Technology academy in the Albuquerque public school district in Bernalillo county;

55. fifty thousand dollars (\$50,000) to plan, design, construct, improve and landscape the grounds, fields and playgrounds, including the purchase and installation of artificial turf, drainage, related equipment, furniture, shade structures and fencing, at Dolores Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

56. ninety-three thousand dollars (\$93,000) to plan, design, construct, improve and landscape the grounds, fields and playgrounds, including the purchase and installation of artificial turf, drainage, related equipment, furniture, shade structures and fencing, at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

57. one hundred twenty thousand dollars (\$120,000) to purchase and equip a bus for East Mountain high school in the Albuquerque public school district in Bernalillo county;

58. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at East Mountain high school in the Albuquerque public school district in Bernalillo county;

59. twenty thousand dollars (\$20,000) to purchase and install a heating, ventilation and air conditioning system at East Mountain high school in the Albuquerque public school district in Bernalillo county;

60. twenty thousand dollars (\$20,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at East San Jose elementary school in the Albuquerque public school district in Bernalillo county;

61. eighty-three thousand dollars (\$83,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county;

62. ninety-seven thousand dollars (\$97,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

63. forty-five thousand dollars (\$45,000) to plan, design, construct, purchase and install improvements, including a roof, fencing, information technology and related equipment, furniture and infrastructure, at El Camino Real academy charter school in the Albuquerque public school district in Bernalillo county;

64. forty-one thousand dollars (\$41,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

65. two hundred thirty thousand dollars (\$230,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

66. eighty-five thousand dollars (\$85,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

67. thirty-five thousand dollars (\$35,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball and tennis court areas, including the purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

68. twenty-five thousand dollars (\$25,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

69. twenty-five thousand dollars (\$25,000) to plan, design, renovate, construct, equip and improve the arts and music buildings, facilities and rooms, including the purchase and installation of related equipment, information technology, equipment storage units, furniture and infrastructure, at Eubank elementary school in the Albuquerque public school district in Bernalillo county;

70. sixty thousand dollars (\$60,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Eubank elementary school in the Albuquerque public school district in Bernalillo county;

71. thirty-three thousand dollars (\$33,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

72. fifteen thousand dollars (\$15,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Freedom high school in the Albuquerque public school district in Bernalillo county;

73. thirty-two thousand dollars (\$32,000) to plan, design, construct, improve, furnish and landscape the grounds, fields and basketball and tennis court areas, including the purchase and installation of related equipment, fencing, court resurfacing, base pavement and striping, at Garfield middle school in the Albuquerque public school district in Bernalillo county;

74. twenty thousand dollars (\$20,000) to plan, design, renovate, construct, equip and improve the arts and music buildings, facilities and rooms, including the purchase and installation of related equipment, information technology, equipment storage units, furniture and infrastructure, at the George I. Sanchez collaborative community school in the Albuquerque public school district in Bernalillo county;

75. thirty thousand dollars (\$30,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Georgia O'Keeffe elementary school in the Albuquerque public school district in Bernalillo county;

76. seventy-five thousand dollars (\$75,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

77. fifty-seven thousand dollars (\$57,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Grant middle school in the Albuquerque public school district in Bernalillo county;

78. forty-five thousand dollars (\$45,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

79. seventy-five thousand dollars (\$75,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

80. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

81. ninety thousand dollars (\$90,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

82. twenty-five thousand dollars (\$25,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Harrison middle school in the Albuquerque public school district in Bernalillo county;

83. sixty-five thousand nine hundred forty-five dollars (\$65,945) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Hayes middle school in the Albuquerque public school district in Bernalillo county;

84. seventy-five thousand dollars (\$75,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Helen Cordero elementary school in the Albuquerque public school district in Bernalillo county;

85. seventy-seven thousand nine hundred forty-five dollars (\$77,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Highland high school in the Albuquerque public school district in Bernalillo county;

86. seventy-five thousand dollars (\$75,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Hoover middle school in the Albuquerque public school district in Bernalillo county;

87. sixty-five thousand dollars (\$65,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Inez elementary school in the Albuquerque public school district in Bernalillo county;

88. twenty thousand dollars (\$20,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Jackson middle school in the Albuquerque public school district in Bernalillo county;

89. seventy-five thousand dollars (\$75,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

90. one hundred twenty-five thousand dollars (\$125,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

91. sixty thousand nine hundred forty-five dollars (\$60,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

92. one hundred eighteen thousand eight hundred dollars (\$118,800) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Jimmy Carter middle school in the Albuquerque public school district in Bernalillo county;

93. seventy-nine thousand dollars (\$79,000) to purchase and install security cameras, including related equipment, information technology, furniture,

infrastructure and improvements, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

94. thirty-eight thousand dollars (\$38,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

95. one hundred twenty thousand eight hundred dollars (\$120,800) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

96. forty thousand nine hundred forty-five dollars (\$40,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

97. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, furnish, equip and improve facilities, buildings, grounds and fencing and to purchase and install information technology, including related equipment, furniture and infrastructure, at la academia de Esperanza in the Albuquerque public school district in Bernalillo county;

98. sixty-eight thousand dollars (\$68,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

99. thirty thousand dollars (\$30,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

100. thirty-two thousand dollars (\$32,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Longfellow elementary school in the Albuquerque public school district in Bernalillo county;

101. thirty thousand dollars (\$30,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure

and improvements, at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

102. forty thousand dollars (\$40,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

103. ten thousand dollars (\$10,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

104. ten thousand dollars (\$10,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Lowell elementary school in the Albuquerque public school district in Bernalillo county;

105. seventy-five thousand dollars (\$75,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

106. forty-five thousand dollars (\$45,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Madison middle school in the Albuquerque public school district in Bernalillo county;

107. forty thousand dollars (\$40,000) to plan, design, renovate, construct, equip and improve the arts and music buildings, facilities and rooms, including the purchase and installation of related equipment, information technology, storage units, furniture and infrastructure, at Manzano high school in the Albuquerque public school district in Bernalillo county;

108. seventy thousand dollars (\$70,000) to plan, design, construct, renovate, equip and improve the performing arts centers, including the purchase and installation of stage curtains, seating, carpet, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Manzano high school in the Albuquerque public school district in Bernalillo county;

109. thirty-five thousand dollars (\$35,000) to plan, design, construct, improve and landscape the grounds, fields and playgrounds, including the purchase and installation of artificial turf, drainage, related equipment, furniture, shade structures and

fencing, at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county;

110. fifty-five thousand nine hundred forty-five dollars (\$55,945) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including the purchase and installation of related equipment, shade structures, furniture, fencing [~~and signage~~], at Mark Twain elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

111. eighty-five thousand dollars (\$85,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Mary Ann Binford elementary school in the Albuquerque public school district in Bernalillo county;

112. forty thousand dollars (\$40,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at McKinley middle school in the Albuquerque public school district in Bernalillo county;

113. twenty thousand dollars (\$20,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

114. thirty thousand dollars (\$30,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Mitchell elementary school in the Albuquerque public school district in Bernalillo county;

115. sixty thousand nine hundred forty-five dollars (\$60,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

116. ten thousand dollars (\$10,000) to purchase and install library and bookroom equipment, furniture, fixtures, book shelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

117. twenty-eight thousand dollars (\$28,000) to purchase and install security cameras, including related equipment, information technology, furniture,



infrastructure and improvements, at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

118. ten thousand dollars (\$10,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

119. twenty thousand dollars (\$20,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at New Futures high school in the Albuquerque public school district in Bernalillo county;

120. eighty-six thousand dollars (\$86,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Northstar elementary school in the Albuquerque public school district in Bernalillo county;

121. sixty thousand dollars (\$60,000) to plan, design, construct, purchase, renovate, furnish, equip and improve facilities, buildings and grounds and to purchase and install information technology, including related equipment, furniture and infrastructure, at Nuestros Valores charter school in the Albuquerque public school district in Bernalillo county;

122. forty-five thousand dollars (\$45,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Onate elementary school in the Albuquerque public school district in Bernalillo county;

123. one hundred eighteen thousand dollars (\$118,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

124. seventy-five thousand dollars (\$75,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Painted Sky elementary school in the Albuquerque public school district in Bernalillo county;

125. forty thousand dollars (\$40,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase

and installation of related equipment, furniture and landscaping, at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

126. twenty thousand dollars (\$20,000) 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;

127. twenty thousand dollars (\$20,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Polk middle school in the Albuquerque public school district in Bernalillo county;

128. thirty-four thousand dollars (\$34,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

129. one hundred twenty-six thousand dollars (\$126,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Robert F. Kennedy charter high school in the Albuquerque public school district in Bernalillo county;

130. fifty thousand dollars (\$50,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

131. seventy thousand dollars (\$70,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

132. twenty-nine thousand dollars (\$29,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at San Antonito elementary school in the Albuquerque public school district in Bernalillo county;

133. ten thousand dollars (\$10,000) to plan, design, construct, improve and landscape the grounds, fields and playgrounds, including the purchase and installation of artificial turf, drainage, related equipment, furniture, shade structures and fencing, at Sandia Base elementary school in the Albuquerque public school district in Bernalillo county;

134. sixty-six thousand dollars (\$66,000) to plan, design, renovate, construct, equip and improve the arts and music buildings, facilities and rooms, including the purchase and installation of related equipment, information technology, equipment storage units, furniture and infrastructure, at Sandia high school in the Albuquerque public school district in Bernalillo county;

135. twenty-five thousand dollars (\$25,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at School on Wheels in the Albuquerque public school district in Bernalillo county;

136. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, improve and landscape the grounds, drainage and parking lot areas, including the purchase and installation of related equipment, shade structures, furniture, fencing [~~and signage~~], at Seven-Bar elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

137. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

138. sixty-nine thousand six hundred dollars (\$69,600) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

139. twenty thousand dollars (\$20,000) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Sombra del Monte elementary school in the Albuquerque public school district in Bernalillo county;

140. forty-six thousand two hundred fifty dollars (\$46,250) to plan, design, construct, purchase and install solar panels, including related equipment, landscaping, fencing, storage, information technology, infrastructure and ground, facility and electrical improvements, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county;

141. forty-five thousand dollars (\$45,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Taft middle school in the Albuquerque public school district in Bernalillo county;

142. one hundred forty-five thousand dollars (\$145,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Taylor middle school in the Albuquerque public school district in Bernalillo county;

143. seventeen thousand dollars (\$17,000) to plan, design, construct, improve and landscape the grounds, drainage and parking lot areas, including the purchase and installation of related equipment, shade structures, furniture, fencing [and signage], at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county; *LINE-ITEM VETO*

144. eighty-three thousand six hundred dollars (\$83,600) to plan, design, construct, improve and landscape the grounds, courtyards, buildings and facilities, including the purchase and installation of related equipment, fencing, shade structures, benches, tables and furniture, at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county;

145. one hundred fifty thousand dollars (\$150,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at Tony Hillerman middle school in the Albuquerque public school district in Bernalillo county;

146. fifty thousand dollars (\$50,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Truman middle school in the Albuquerque public school district in Bernalillo county;

147. twenty-five thousand dollars (\$25,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Truman middle school in the Albuquerque public school district in Bernalillo county;

148. eighty-six thousand dollars (\$86,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Valle Vista elementary school in the Albuquerque public school district in Bernalillo county;

149. ninety-five thousand dollars (\$95,000) to plan, design, construct, renovate, equip and improve the performing arts centers, including the purchase and installation of stage curtains, seating, carpeting, sound and lighting systems, refinishing of stages, information technology and related equipment, furniture and infrastructure, at Valley high school in the Albuquerque public school district in Bernalillo county;

150. one hundred twelve thousand dollars (\$112,000) to plan, design, construct, renovate, equip and furnish improvements to the gymnasium, buildings and

facilities, including the purchase and installation of related equipment, gym floor upgrades, floor surfacing, furniture and infrastructure, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

151. eighty-two thousand four hundred dollars (\$82,400) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

152. seventy-five thousand dollars (\$75,000) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

153. forty-seven thousand eight hundred dollars (\$47,800) to plan, design, construct, improve, landscape, equip and furnish the grounds, courtyards and fields, including the purchase and installation of related equipment, drainage, bleachers, fencing, shade structures and furniture, at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

154. thirteen thousand dollars (\$13,000) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Washington middle school in the Albuquerque public school district in Bernalillo county;

155. one hundred ninety-four thousand dollars (\$194,000) to plan, design, renovate and construct improvements to the grounds, fields and track areas, including the purchase and installation of related equipment, furniture and landscaping, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

156. fifty-five thousand nine hundred forty-five dollars (\$55,945) to plan, design, construct, improve and landscape the grounds, fields and playgrounds, including the purchase and installation of artificial turf, drainage, related equipment, furniture, shade structures and fencing, at Wherry elementary school in the Albuquerque public school district in Bernalillo county;

157. fifty thousand nine hundred forty-five dollars (\$50,945) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure and improvements, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

158. forty-nine thousand dollars (\$49,000) to purchase and install security cameras, including related equipment, information technology, furniture, infrastructure

and improvements, at Wilson middle school in the Albuquerque public school district in Bernalillo county;

159. fifty-five thousand nine hundred forty-five dollars (\$55,945) to purchase and install library and bookroom equipment, furniture, fixtures, bookshelves and information technology, including related equipment, infrastructure and improvements, in the libraries and bookrooms at Zia elementary school in the Albuquerque public school district in Bernalillo county;

160. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, improve, landscape and equip the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures and drainage improvements, at Zuni elementary school in the Albuquerque public school district in Bernalillo county;

161. three hundred thousand dollars (\$300,000) to plan, design, purchase, construct and install fire alarm systems at Central elementary school, Hermosa elementary school, Yucca elementary school and Artesia intermediate school in the Artesia public school district in Artesia in Eddy county;

162. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for Carlsbad intermediate school in the Carlsbad municipal school district in Eddy county;

163. two hundred thousand dollars (\$200,000) to plan, design, construct and equip a food service area at Loving elementary school in the Loving municipal school district in Eddy county;

164. one hundred fifty thousand dollars (\$150,000) to purchase and equip an activity bus for the Cobre consolidated school district in Grant county;

165. forty-five thousand dollars (\$45,000) to plan, design and construct security improvements for the entrances to San Lorenzo, Central and Hurley elementary schools in the Cobre consolidated school district in Grant county;

166. thirty-five thousand dollars (\$35,000) to plan, design, construct and furnish the career technical education center, including water and electrical system improvements and the purchase of equipment, in the Santa Rosa consolidated school district in Guadalupe county;

~~[167. twenty-seven thousand dollars (\$27,000) to purchase and equip a bus for the Vaughn municipal school district in Guadalupe county;]~~ *LINE-ITEM VETO*

168. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate a modular building for a school site-based health clinic for the Lovington municipal school district in Lea county;

169. thirty thousand dollars (\$30,000) to purchase and equip a vehicle for the Corona public school district in Lincoln county;

170. fifty thousand dollars (\$50,000) to plan, design, construct and install bleachers for the multipurpose gymnasium in the Dora consolidated school district in Roosevelt county;

171. fifty thousand dollars (\$50,000) to purchase and equip a bus for the Dora consolidated school district in Roosevelt county;

172. fifty-four thousand dollars (\$54,000) to purchase and equip a bus for the Elida municipal school district in Roosevelt county;

173. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install energy-efficient lighting in the Floyd municipal school district campus in Roosevelt county;

~~[174. thirty thousand dollars (\$30,000) to purchase and equip a bus for the Las Vegas city public school district in San Miguel county;]~~ *LINE-ITEM VETO*

175. forty-five thousand dollars (\$45,000) to purchase and equip vehicles for the Las Vegas city public school district in San Miguel county;

~~[176. five thousand dollars (\$5,000) to purchase band instruments and equipment for Robertson high school in the Las Vegas city public school district in San Miguel county;]~~ *LINE-ITEM VETO*

177. fifty thousand dollars (\$50,000) for energy-efficiency improvements and to replace windows at Pecos middle school and Pecos high school in the Pecos independent school district in San Miguel county;

178. thirty-five thousand two hundred seventy-eight dollars (\$35,278) to plan, design, construct, furnish and equip improvements, including the purchase and installation of information technology and related equipment, furniture and infrastructure, for the head start program in the West Las Vegas public school district in San Miguel county;

179. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and install security systems on campuses in the west Las Vegas public school district in San Miguel county;

180. fifty-five thousand dollars (\$55,000) to purchase and equip a bus for the special Olympics program in the west Las Vegas public school district in San Miguel county;

~~[181. thirty thousand dollars (\$30,000) to plan, design and construct an Indian education resource center in the Bernalillo public school district in Sandoval county;] *LINE-ITEM VETO*~~

182. forty thousand dollars (\$40,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including a track, ball courts and the purchase and installation of tables, sheds, shade structures, fencing and information technology with related equipment, furniture and infrastructure, at the Ask Academy charter school in Rio Rancho in Sandoval county;

183. seventy thousand dollars (\$70,000) to plan, design and construct improvements to the entry at Independence high school in the Rio Rancho public school district in Sandoval county;

184. one hundred thousand dollars (\$100,000) to plan, design and construct main entry improvements at V. Sue Cleveland high school in the Rio Rancho public school district in Sandoval county;

185. one hundred thousand dollars (\$100,000) to equip two school libraries, including the purchase and installation of information technology and related equipment, furniture and infrastructure, at McCurdy charter school in Espanola in Santa Fe county;

186. forty-five thousand dollars (\$45,000) to plan, design and construct improvements at the Nambe head start facility in the Pojoaque Valley public school district in Santa Fe county;

187. sixteen thousand dollars (\$16,000) to plan, design and construct improvements to a walking track, including replacements and purchase and installation of equipment, at Amy Biehl community school in the Santa Fe public school district in Santa Fe county;

~~[188. thirty thousand dollars (\$30,000) to plan, design, construct, renovate, improve and equip an athletic field at Aspen Community magnet school in the Santa Fe public school district in Santa Fe county;] *LINE-ITEM VETO*~~

189. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including the purchase and installation of equipment and lighting, to the playground and basketball court at Atalaya elementary school in the Santa Fe public school district in Santa Fe county;

190. thirty-five thousand dollars (\$35,000) to plan, design, construct, improve and equip a practice field at Capital high school in the Santa Fe public school district in Santa Fe county;



191. seventy thousand dollars (\$70,000) to plan, design, construct and improve a performance stage, including the purchase and installation of equipment, at El Dorado community school in the Santa Fe public school district in Santa Fe county;

192. ten thousand eight hundred dollars (\$10,800) to plan, design, construct, improve and equip classrooms and playgrounds to accommodate medically fragile children at the Nina Otero community school in the Santa Fe public school district in Santa Fe county;

193. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, renovate, improve and equip tennis courts at Santa Fe high school in the Santa Fe public school district in Santa Fe county;

194. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate and equip an emergency command center in the Santa Fe public school district in Santa Fe county;

195. eighteen thousand dollars (\$18,000) to plan, design, construct, purchase and install flooring improvements at Tesuque elementary school in the Santa Fe public school district in Santa Fe county;

196. twenty thousand dollars (\$20,000) to purchase and install security gates for schools in the Penasco independent school district in Taos county;

197. twenty-four thousand two hundred dollars (\$24,200) to purchase and install equipment for the agricultural education workshop in the Estancia municipal school district in Torrance county;

198. fifty-five thousand dollars (\$55,000) to purchase and install security improvements in schools throughout the Estancia municipal school district in Torrance county;

199. twenty thousand dollars (\$20,000) to plan, design, construct, renovate and equip the automotive facilities at Moriarty high school in the Moriarty-Edgewood school district in Torrance county;

200. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and equip the carpentry-furniture building and wood technology program at Moriarty high school in the Moriarty-Edgewood school district in Torrance county;

201. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate and equip the future farmers of America and dual-credit welding program, including ventilation improvements, at Moriarty high school in the Moriarty-Edgewood school district in Torrance county;

~~[202. thirty-four thousand dollars (\$34,000) to purchase equipment and furnishings, including digital pianos, for a piano laboratory in the music building at Moriarty high school in the Moriarty-Edgewood school district in Torrance county;] *LINE-ITEM VETO*~~

203. sixteen thousand dollars (\$16,000) to plan, design, construct and equip a special education independent life skills center at Moriarty high school in the Moriarty-Edgewood municipal school district in Torrance county;

204. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install bleachers for the gymnasium at Los Lunas middle school in the Los Lunas public school district in Valencia county; and

205. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install bleachers at Valencia high school in the Los Lunas public school district in Valencia county.

## **Chapter 81 Section 15 Laws 2016**

SECTION 15. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the energy, minerals and natural resources department for the following purposes:

1. one million dollars (\$1,000,000) for site improvements and to plan, design, construct, equip and furnish the oil conservation division district office in Artesia in Eddy county; and

2. five hundred thousand dollars (\$500,000) to purchase and equip law enforcement vehicles and emergency equipment statewide.

## **Chapter 81 Section 16 Laws 2016**

SECTION 16. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.-- Pursuant to the provisions of Section 1 of this act, upon certification by the state parks division of the energy, minerals and natural resources department that the need exists for the issuance of the bonds, the following amounts are appropriated to the state parks division of the energy, minerals and natural resources department for the following purposes:

1. two hundred twenty-four thousand three hundred forty-one dollars (\$224,341) to plan, design, renovate and construct improvements to the Vietnam veterans memorial state park in Colfax county;

2. two hundred fifty thousand dollars (\$250,000) to acquire land and to plan, design, develop, improve, equip and furnish Pecos Canyon state park, including site improvements and the purchase and installation of fencing [~~and signage~~], in San Miguel county; and *LINE-ITEM VETO*

3. two hundred fifty thousand dollars (\$250,000) to plan, design and upgrade water and wastewater infrastructure at state parks statewide.

## **Chapter 81 Section 17 Laws 2016**

SECTION 17. OFFICE OF THE STATE ENGINEER PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the office of the state engineer that the need exists for the issuance of the bonds, the following amounts are appropriated to the office of the state engineer for the following purposes:

1. five hundred eighty-nine thousand dollars (\$589,000) to design, construct and equip phase 1a and 1b improvements to the Griggs field detention basin in Alamogordo in Otero county;

2. five hundred fifty thousand dollars (\$550,000) to acquire land for and to plan, design and construct the Villa View detention ponds facility in Farmington in San Juan county; and

3. one million dollars (\$1,000,000) to plan, design, construct and rehabilitate high hazard dams owned by public entities for water supply, irrigation and recreation use in New Mexico.

## **Chapter 81 Section 18 Laws 2016**

SECTION 18. DEPARTMENT OF ENVIRONMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of environment that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of environment for the following purposes:

~~[1. ten thousand dollars (\$10,000) to plan, design, construct and renovate the pump station at Don reservoir for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;] *LINE-ITEM VETO*~~

2. thirty thousand dollars (\$30,000) to plan and design a water reuse plant for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

~~[3. fifty thousand dollars (\$50,000) to plan, design and construct phase 2B of the Carnuel water project for the Albuquerque-Bernalillo county water utility authority in Carnuel in Bernalillo county;] *LINE-ITEM VETO*~~

4. ninety thousand nine hundred ten dollars (\$90,910) to plan, design, construct, purchase and install compactors at solid waste convenience centers in Chaves county;

5. two hundred ninety-five thousand dollars (\$295,000) to plan, design, construct and improve the water supply line in Dexter in Chaves county;

6. two hundred thirty-five thousand dollars (\$235,000) to plan, design and construct expansions and upgrades to the North Acomita wastewater treatment facility at the Pueblo of Acoma in Cibola county;

7. one hundred ninety thousand dollars (\$190,000) to plan, design, construct and repair water storage tanks in Angel Fire in Colfax county;

~~8. twenty thousand dollars (\$20,000) to plan, design, construct, purchase and install a water storage tank in Maxwell in Colfax county;~~

~~9. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and equip the water treatment facility in Raton in Colfax county;]~~ *LINE-ITEM VETO*

10. twenty thousand dollars (\$20,000) to plan, design, construct and renovate the wastewater treatment plant in Springer in Colfax county;

11. two hundred thousand dollars (\$200,000) to plan, design, construct, repair and replace lift stations for the Camino Real regional utility authority in Santa Teresa and Sunland Park in Dona Ana county;

12. thirty-seven thousand five hundred dollars (\$37,500) to purchase and install radio-read water meters, a global positioning system and information technology, including related equipment, furniture and infrastructure, for the lower Rio Grande public water works authority in Dona Ana county;

13. ninety thousand dollars (\$90,000) to plan, design, purchase and install supervisory control and data acquisition information technology, including related equipment, furniture and infrastructure, for the lower Rio Grande public water works authority in Dona Ana county;

14. eighty thousand dollars (\$80,000) to purchase and equip solid waste trucks in Anthony in Dona Ana county;

15. three hundred thousand dollars (\$300,000) to construct phase 1C of the wastewater system in Chaparral in Dona Ana county;

16. two hundred seventy-five thousand five hundred dollars (\$275,500) to plan, design, construct, purchase and install a meter reading system, including

information technology and related equipment, furniture and infrastructure, in Hatch in Dona Ana county;

17. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and install water system equipment for La Union mutual domestic sewer and water association in La Union in Dona Ana county;

18. seventy-five thousand dollars (\$75,000) to acquire easements and rights of way and to plan, design, construct, purchase and equip water system improvements for La Union mutual domestic sewer and water association in La Union in Dona Ana county;

19. five hundred forty thousand dollars (\$540,000) to plan, design, construct and replace septic systems in Las Cruces in Dona Ana county;

20. one hundred fifty thousand dollars (\$150,000) to construct phase 2 of the wastewater collection system at McDowell road in Mesilla in Dona Ana county;

21. three hundred sixty thousand dollars (\$360,000) to plan, design, construct, purchase and install a water tower for the southwestern area of Artesia in Eddy county;

22. ninety thousand dollars (\$90,000) to plan, design and construct sewer collection system improvements in Loving in Eddy county;

23. twenty-five thousand dollars (\$25,000) to purchase and equip roll-off bins for the Southwest solid waste authority in Grant county;

24. one hundred thousand dollars (\$100,000) to plan, design, construct and equip water system improvements in Hurley in Grant county;

~~[25. ten thousand dollars (\$10,000) to plan, design, construct, purchase and install improvements to a water system for the Sangre de Cristo regional mutual domestic water consumers and mutual sewage works association in Guadalupe county;~~

~~26. eight thousand dollars (\$8,000) to purchase and install equipment for the Hollywood Ranch domestic water users association in Guadalupe county;~~

~~27. twenty-four thousand dollars (\$24,000) to purchase and equip a vehicle for solid waste pickup in Vaughn in Guadalupe county;~~

~~28. twenty thousand dollars (\$20,000) to plan, design and construct water system and water tank improvements in Roy in Harding county;] *LINE-ITEM VETO*~~

29. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip water system improvements, including rehabilitation of wells and drilling of a new well, in Lordsburg in Hidalgo county;

30. one hundred thousand dollars (\$100,000) to plan, design and construct aerobic digestion basins, including the purchase and installation of related equipment, at the wastewater reclamation facility in Hobbs in Lea county;

31. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the effluent reuse system in Hobbs in Lea county;

32. four hundred thirty-one thousand dollars (\$431,000) to plan, design, construct and replace the sewer lines and manholes in Hobbs in Lea county;

33. one hundred thousand dollars (\$100,000) to plan and design improvements to the wastewater reclamation facility in Hobbs in Lea county;

34. two hundred twenty thousand dollars (\$220,000) to purchase and install radio-read water meters and related equipment in Lovington in Lea county;

35. twenty-five thousand dollars (\$25,000) to purchase and install automatic-read residential water meters for the Sun Valley water and sanitation district in Lincoln county;

36. twenty-five thousand dollars (\$25,000) to plan, design, purchase and install a supervisory control and data acquisition system for the water system in Capitan in Lincoln county;

37. ten thousand dollars (\$10,000) to plan, design, purchase and construct repairs and replacement, including pumps, pipe and casings, of Red Cloud well 7 in Corona in Lincoln county;

38. sixty thousand dollars (\$60,000) to plan, design, purchase, construct and install improvements, including pumps, electronic level monitoring and data collection equipment, for wells in Corona in Lincoln county;

39. twenty thousand dollars (\$20,000) to purchase and equip vertical balers for the Greentree solid waste authority in Ruidoso Downs in Lincoln county;

40. fifty thousand dollars (\$50,000) to purchase and equip a transfer trailer for the Greentree solid waste authority in Ruidoso Downs in Lincoln county;

~~41. thirty thousand dollars (\$30,000) to plan, design, construct and equip improvements to the water well in the Baahaali chapter of the Navajo Nation in McKinley county;~~

~~42. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a wastewater lagoon system in the Chichiltah chapter of the Navajo Nation in McKinley county;~~

~~43. eighty thousand dollars (\$80,000) to plan, design and construct a wastewater treatment cell at the Pueblo of Zuni in McKinley county;] LINE-ITEM VETO~~

44. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Agua Pura mutual domestic water consumers and mutual sewage works association in Chacon in Mora county;

45. two hundred sixty-five thousand dollars (\$265,000) to purchase and equip trash trucks for the Pueblo of Isleta in Bernalillo and Valencia counties;

46. five hundred eighty-two thousand dollars (\$582,000) to plan, design and construct a water treatment and recycling facility, including purchase and installation of equipment, in Cloudcroft in Otero county;

47. one hundred eighty-one thousand dollars (\$181,000) to plan, design, improve and replace water and sewer lines in the Second street area in Tucumcari in Quay county;

48. fifty thousand dollars (\$50,000) to plan, design and construct a well, pump house and water treatment system for the Alcalde mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

49. one hundred thousand dollars (\$100,000) to plan, design and construct improvements for the Canjilon mutual domestic water consumers and mutual sewage works association in Canjilon in Rio Arriba county;

50. one hundred six thousand dollars (\$106,000) to plan, design and construct a water treatment pod for Chama in Rio Arriba county;

51. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a water system and improvements for the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county;

52. fifty thousand dollars (\$50,000) to plan, design, construct and equip water system improvements, including a water tank, water lines and a treatment system, for the Vallecitos mutual domestic water consumers association in Rio Arriba county;

53. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the water system, including the purchase and installation of fire hydrants, service connections, meter readers and related equipment, in Elida in Roosevelt county;

54. one hundred seventy thousand dollars (\$170,000) to plan, design and construct fire protection and water system improvements in Portales in Roosevelt county;

55. three million dollars (\$3,000,000) to plan, design and construct a wastewater system for the Flora Vista mutual domestic water association in San Juan county;

56. ten thousand dollars (\$10,000) to replace residential water meters for the Navajo dam domestic water consumers and mutual sewage works cooperative in San Juan county;

57. two hundred twenty-two thousand dollars (\$222,000) to plan, design and construct an alternate water supply diversion in Bloomfield in San Juan county;

~~58. forty thousand dollars (\$40,000) to plan, develop and construct water lines in the Bisti area of the Huerfano chapter of the Navajo Nation in San Juan county;]~~  
*LINE-ITEM VETO*

59. one hundred thousand dollars (\$100,000) to acquire rights of way and easements and to plan, design and construct a wastewater system and extension south of Shiprock in the Navajo Nation in San Juan county;

~~[60. thirty thousand dollars (\$30,000) to plan, design and construct a septic recycling facility in San Miguel county;]~~ *LINE-ITEM VETO*

61. sixty-five thousand dollars (\$65,000) to plan, design and construct improvements to a water system for El Creston mutual domestic water consumers association in San Miguel county;

62. ninety-eight thousand dollars (\$98,000) to plan, design and construct a sewer line between the east Pecos area and the [water] treatment plant in the west Pecos area in San Miguel county; *LINE-ITEM VETO*

63. fifty thousand dollars (\$50,000) to plan, design and construct improvements to a water system for El Valle water alliance in San Miguel county;

64. forty-five thousand dollars (\$45,000) to plan, design and construct improvements to a water system for the Chapelle mutual domestic consumers association in San Miguel county;

65. one hundred thousand dollars (\$100,000) to purchase and install an arsenic treatment system for municipal drinking water well 2 in Bernalillo in Sandoval county;



66. seventy thousand dollars (\$70,000) to plan, design and construct water system improvements in Cuba in Sandoval county;

67. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for La Jara mutual domestic water consumers and mutual sewage works association in Sandoval county;

68. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct phase 2 water system improvements and remediation in Placitas in Sandoval county;

69. one hundred thousand dollars (\$100,000) to plan, design and construct a water well, water storage tanks, water lines and a building, including purchase and installation of related equipment, in Placitas in Sandoval county;

70. three hundred forty-five thousand dollars (\$345,000) to plan, design and construct an arroyo diversion structure and open space area on Sheriff's Posse road for the southern Sandoval county arroyo flood control authority in Bernalillo in Sandoval county;

71. one hundred thirty-two thousand one hundred sixty dollars (\$132,160) to plan, design and construct a solid waste transfer station for the Pueblo of Sandia in Sandoval county;

72. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip a new water well, distribution system and well house, including an arsenic treatment system and a supervisory control and data acquisition system, for the Pueblo of Santa Ana in Sandoval county;

73. fifty thousand dollars (\$50,000) to plan, design and construct a utility corridor in Agua Fria in Santa Fe county;

74. one hundred thousand dollars (\$100,000) to plan, design, construct and improve a water distribution system in Agua Fria in Santa Fe county;

75. three hundred sixty thousand dollars (\$360,000) to plan, design, construct and equip a wastewater collection, treatment and reuse system for Edgewood in Santa Fe county;

76. one hundred fifteen thousand dollars (\$115,000) to plan, design and construct improvements for wells 2A and 2B, including piping modifications and a well house addition, for the Eldorado area water and sanitation district in Santa Fe county;

77. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct and improve the water and wastewater system, including the purchase and

installation of a water tank and sewer lines, for the Pueblo of Nambe in Santa Fe county;

78. two hundred thousand dollars (\$200,000) to plan, design and construct wastewater system improvements and collection lines in Elephant Butte in Sierra county;

79. one hundred thousand dollars (\$100,000) to plan, design and construct a water system for Monticello in Sierra county;

80. twenty thousand dollars (\$20,000) to plan, design, construct and renovate the Llano Quemado mutual domestic water consumers association water system, including water lines, a water tank and a well, in Llano Quemado in Taos county;

81. twenty-five thousand dollars (\$25,000) to purchase and install a replacement card reader meter system for the West Rim mutual domestic water users' association in Taos county;

82. forty-five thousand dollars (\$45,000) to plan, design and construct water system improvements for Cerro regional mutual domestic water consumers and sewage works association in Cerro in Taos county;

83. twenty thousand dollars (\$20,000) to plan, design and construct water system improvements for Trampas domestic water consumers and mutual sewage works association in Taos county;

84. fifty thousand dollars (\$50,000) to plan, design, construct and improve the facilities and water systems, including the purchase and installation of fencing and a generator, for El Prado water and sanitation district in El Prado in Taos county;

85. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and extend sewer lines in Questa in Taos county;

86. fifty thousand dollars (\$50,000) to acquire land and to plan, design, construct and improve the water system in Questa in Taos county;

87. fifty thousand dollars (\$50,000) to plan, design and construct phase 2D-1B improvements to the sewer system for El Valle de Los Ranchos water and sanitation district in Taos county;

88. fifty thousand dollars (\$50,000) to plan, design and construct phase 1 of a wastewater treatment plant expansion and upgrade in Taos Ski Valley in Taos county;

89. seventy thousand dollars (\$70,000) to acquire water rights and to plan, design and construct wells and improvements to the water well and supervisory control and data acquisition systems and facilities in Moriarty in Torrance county;

90. sixty thousand dollars (\$60,000) to plan, design and construct water system improvements, including a well, in Willard in Torrance county;

91. one hundred thousand dollars (\$100,000) to plan, design and construct a ground water monitoring well in Clayton in Union county;

92. seventy-four thousand dollars (\$74,000) to purchase water rights and to plan, design and construct a water well and system for El Cerro mission field in Valencia county; and

93. three hundred thousand dollars (\$300,000) to plan, design, purchase, construct and install a sewer line connecting Dennis Chavez elementary school to the sewer system in Belen in Valencia county.

## **Chapter 81 Section 19 Laws 2016**

SECTION 19. STATE FAIR COMMISSION PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the state fair commission that the need exists for the issuance of the bonds, one million five hundred thousand dollars (\$1,500,000) is appropriated to the state fair commission to plan, design, construct, renovate, purchase and install infrastructure improvements campuswide, including asphalt resurfacing and roofs, at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 81 Section 20 Laws 2016**

SECTION 20. INDIAN AFFAIRS DEPARTMENT PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the Indian affairs department that the need exists for the issuance of the bonds, the following amounts are appropriated to the Indian affairs department for the following purposes:

1. two hundred seventy-six thousand dollars (\$276,000) to plan, design and construct improvements to the parking lot, including curb cuts and relocation of a gate entrance, at the Indian pueblo cultural center in Albuquerque in Bernalillo county;

2. seventy-five thousand dollars (\$75,000) to plan, design and construct a skateboard and recreational park, including purchase and installation of furnishings and equipment, in the To'hajilee chapter of the Navajo Nation in Bernalillo county;

~~[3. twenty thousand dollars (\$20,000) to plan, design, replace and improve information technology and telecommunications systems for the Pueblo of Acoma in Cibola county;] *LINE-ITEM VETO*~~

4. two hundred twenty-five thousand dollars (\$225,000) to replace the public safety building roof in the Pueblo of Laguna in Cibola county;

5. sixty thousand dollars (\$60,000) to purchase and equip a vehicle with a pumper unit for the Ramah Navajo utility authority at the Ramah chapter of the Navajo Nation in Cibola county;

6. one hundred sixty-five thousand dollars (\$165,000) to plan, design and construct a solid waste transfer station, including a trash compactor dumpster, a trash bin and an operator building, in the Ramah chapter of the Navajo Nation in Cibola county;

~~[7. one hundred thirty-one thousand dollars (\$131,000) to plan, design and construct monuments for the Fort Sill Apache Tribe of Oklahoma in Luna county;~~

~~8. ninety thousand dollars (\$90,000) to plan, design and construct bathroom additions in the Chichiltah chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

9. eighty-five thousand dollars (\$85,000) to construct and renovate the rehabilitation center in the Coyote Canyon chapter of the Navajo Nation in McKinley county;

10. ninety thousand dollars (\$90,000) to purchase and install mobile home units at Navajo technical university in Crownpoint in McKinley county;

11. ninety thousand dollars (\$90,000) to plan, design and construct a powerline extension in the Little Water chapter of the Navajo Nation in McKinley county;

~~[12. sixty-five thousand dollars (\$65,000) to plan, design, construct and renovate a former head start building for a chapter administrative service center in the Manuelito chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

13. one hundred twenty thousand dollars (\$120,000) to plan, design and construct renovations and additions to the chapter house, including a gymnasium, for a multipurpose community building for the Mariano Lake chapter of the Navajo Nation in McKinley county;

14. twenty-five thousand dollars (\$25,000) to ~~acquire rights of way and to~~ plan, design and construct a powerline in the Pueblo Pintado chapter of the Navajo Nation in McKinley county; *LINE-ITEM VETO*

~~[15. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the utility lines along Shepard Springs boulevard, Mill road and Lone Pine drive in the Red Lake chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

16. fifty thousand dollars (\$50,000) ~~[to acquire rights of way for and]~~ to plan, design and construct powerline extensions in the Tohatchi chapter of the Navajo Nation in McKinley county; *LINE-ITEM VETO*

17. two hundred thousand dollars (\$200,000) to plan, design and construct a water well and system improvements to Red Willow farm in the Tohatchi chapter of the Navajo Nation in McKinley county;

~~[18. one hundred ten thousand dollars (\$110,000) to plan, design and construct a powerline extension and related wiring in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

19. seventy thousand dollars (\$70,000) to purchase and equip a heavy-duty truck and flatbed transport trailer for the Tse'ii'ahi chapter of the Navajo Nation in McKinley county;

~~[20. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish a warehouse barn for the Twin Lakes chapter of the Navajo Nation in McKinley county;] *LINE-ITEM VETO*~~

21. fifty thousand dollars (\$50,000) to plan, design and construct powerline extensions in the Whitehorse Lake chapter of the Navajo Nation in McKinley county;

~~[22. one hundred ninety thousand dollars (\$190,000) to purchase, install and equip a backup generator, including concrete pad construction, for the main water well at the Pueblo of Zuni in McKinley county;] *LINE-ITEM VETO*~~

23. forty thousand dollars (\$40,000) ~~[to acquire rights of way and easements for and]~~ to plan, design and construct the Eagle Spring powerline in the Ojo Encino chapter of the Navajo Nation in Sandoval and McKinley counties; *LINE-ITEM VETO*

~~[24. seventy five thousand dollars (\$75,000) to plan, design and construct an arts and crafts facility in the Torreón Star Lake chapter of the Navajo Nation in Sandoval county;] *LINE-ITEM VETO*~~

25. one hundred thirty thousand dollars (\$130,000) to plan, design, purchase, construct and equip a sanitation collection truck for the Mescalero Apache Tribe in Otero county;

26. ninety thousand dollars (\$90,000) to plan, design, purchase and equip a septic truck for the Mescalero Apache Tribe in Otero county;

~~[27. one hundred five thousand dollars (\$105,000) to purchase and install a communications tower and for repairs at the Ojito tower site on New Mexico highway 537 for the Jicarilla Apache Nation in Rio Arriba county;] *LINE-ITEM VETO*~~

28. thirty-two thousand thirty-five dollars (\$32,035) to purchase self-contained breathing apparatus for the Dulce fire department in the Jicarilla Apache Nation in Rio Arriba county;

29. thirty thousand eight hundred five dollars (\$30,805) to purchase protective equipment for the Dulce fire department in the Jicarilla Apache Nation in Rio Arriba county;

30. one hundred sixty thousand dollars (\$160,000) to acquire land and to plan, design, construct and renovate the fire department in Ohkay Owingeh in Rio Arriba county;

31. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip a regional health center for the Pueblo of Santa Clara in Rio Arriba county;

32. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including site improvements, to a parking lot at the chapter house of the Crystal chapter of the Navajo Nation in San Juan and McKinley counties;

33. ninety thousand dollars (\$90,000) to construct the Kinnadiz and Pillow Crest electrical powerline extension project in the Nageezi chapter of the Navajo Nation in San Juan county;

~~[34. twenty five thousand dollars (\$25,000) to plan, design and construct a veterans' memorial park in the Newcomb chapter of the Navajo Nation in San Juan county;] *LINE-ITEM VETO*~~

35. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements to the chapter house at the Sanostee chapter of the Navajo Nation in San Juan county;

~~[36. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a regional multipurpose building in the Tooh Haltsooi chapter of the Navajo Nation in San Juan county;~~

~~37. seventy five thousand dollars (\$75,000) to plan, design, construct and equip powerline extensions and connections in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;] *LINE-ITEM VETO*~~

38. ninety-six thousand dollars (\$96,000) to plan, design, construct and equip a veterans' memorial park and modular facility, including fencing, in the Two Grey Hills chapter of the Navajo Nation in San Juan county;

39. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, equip and furnish the multi-use, cultural and language facilities at the Pueblo of Cochiti in Sandoval county;

40. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a metal building, including a concrete pad, for adobe production in the Pueblo of Jemez in Sandoval county;

41. one hundred thousand dollars (\$100,000) to purchase and install water meters in the Pueblo of Jemez in Sandoval county;

42. twenty-five thousand dollars (\$25,000) to plan, design and construct baseball fields on the Pueblo of San Felipe in Sandoval county;

43. ninety thousand dollars (\$90,000) to plan, design and construct a dam on the San Francisco arroyo in the Pueblo of San Felipe in Sandoval county;

44. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip a public safety, judicial and social services complex in the Pueblo of Santa Ana in Sandoval county;

45. seventy thousand dollars (\$70,000) to purchase and equip a road grader for the Pueblo of Santo Domingo in Sandoval county;

46. one hundred forty-five thousand dollars (\$145,000) to plan and design phase 1 of a childhood development center for the Pueblo of Zia in Sandoval county;

~~[47. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, repair and improve the buildings, facilities, grounds and parking lot; to purchase and install equipment and furniture; and to purchase and equip vehicles for the Pojoaque wellness center in the Pueblo of Pojoaque in Santa Fe county;~~

~~48. fifty thousand dollars (\$50,000) to plan, design and construct an access lane and other road improvements, including ingress and egress, curbs and gutters and storm drainage, at the Santa Fe Indian school in Santa Fe in Santa Fe county;] *LINE-ITEM VETO*~~

49. one hundred twenty-four thousand dollars (\$124,000) to purchase and equip a backhoe for the Pueblo of Tesuque in Santa Fe county;

~~[50. twenty thousand dollars (\$20,000) to purchase weapons and equipment for the department of public safety special resource team in the Pueblo of Taos in Taos county;] and *LINE-ITEM VETO*~~

51. ninety thousand dollars (\$90,000) to plan, design, construct, landscape and improve the security systems, parking lots, sidewalks and driveways, including the purchase and installation of fencing and lighting, at the veterans' association building in the Pueblo of Isleta in Valencia county.

## **Chapter 81 Section 21 Laws 2016**

SECTION 21. INTERSTATE STREAM COMMISSION PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the interstate stream commission that the need exists for the issuance of the bonds, the following amounts are appropriated to the interstate stream commission for the following purposes:

~~1. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Anton Chico, the acequia de Bado de Paiz, the acequia del Hormigoso and the acequia de Tecolotito in Guadalupe county;~~

~~2. ten thousand dollars (\$10,000) to plan, design and construct improvements for the acequia del Alto al Norte in Mora county;~~

~~3. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and replace pipelines for the Tularosa community ditch association in Tularosa in Otero county;~~

~~4. thirty-seven thousand dollars (\$37,000) to plan, design and construct improvements to the acequia de Atras de la Plaza in Rio Arriba county;~~

~~5. thirty thousand dollars (\$30,000) to purchase and install a water metering device for the Salazar community ditch in Hernandez in Rio Arriba county;~~

~~6. thirty-five thousand dollars (\$35,000) to plan, design and construct erosion prevention structures at the acequia de Ojo Sarco in Rio Arriba county;~~

~~7. thirty-five thousand dollars (\$35,000) to plan, design and construct phase 1 improvements to the acequia de Ojo Sarco, including the purchase and installation of piping, in Rio Arriba county;~~

~~8. thirty thousand dollars (\$30,000) to plan, design and construct improvements to the acequia Madre de Las Vegas in San Miguel county;~~

~~9. six thousand dollars (\$6,000) to construct, purchase and install improvements to the northside acequia Madre de Villanueva in San Miguel county;~~



~~10. ten thousand dollars (\$10,000) to plan, design and construct emergency repairs and improvements to acequias in the Jemez river basin in Sandoval county;~~

~~11. thirty thousand dollars (\$30,000) to plan, design and construct improvements to the acequia del Barranco de Jacona in the Pojoaque area in Santa Fe county;~~

~~12. thirteen thousand dollars (\$13,000) to plan, design and construct improvements to the Alto ditch for the Rio en Medio ditch association in Santa Fe county;~~

~~13. five thousand three hundred seventy five dollars (\$5,375) to plan, design and construct improvements to the Canadita ditch for the Rio en Medio ditch association in Santa Fe county;~~

~~14. one hundred thousand dollars (\$100,000) to plan, design and construct a diversion dam, including appurtenant structures and improvements, for the acequia de Los Fresquez in Santa Fe county;~~

~~15. sixty eight thousand five hundred twenty two dollars (\$68,522) to plan, design, construct, purchase and install reservoir and acequia improvements for la acequia de La Cienega in Santa Fe county;~~

~~16. fifty thousand dollars (\$50,000) to plan, design and construct improvements, including purchase and installation of equipment, to El Guicu ditch in La Cienega in Santa Fe county;~~

~~17. seventy five thousand dollars (\$75,000) to plan, design and construct improvements to the acequia de Los Maestas in La Puebla in Santa Fe county;~~

~~18. twenty thousand dollars (\$20,000) to plan, design and construct repairs and improvements, including gabions, to the acequia del Llano in the Nambe area in Santa Fe county;~~

~~19. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the acequia de Las Joyas in Santa Fe county;~~

~~20. six thousand three hundred fifty dollars (\$6,350) to plan, design and construct improvements to the Medio ditch for the Rio en Medio ditch association in Santa Fe county;] *LINE-ITEM VETO*~~

~~21. ninety-four thousand dollars (\$94,000) to plan, design and construct improvements to acequias statewide for the New Mexico acequia commission[;] *LINE-ITEM VETO*~~

~~[22. forty thousand dollars (\$40,000) to plan, design and construct a pipeline for the acequia de Llano de San Juan de Nepomuceno in Taos county;~~

~~23. fifteen thousand dollars (\$15,000) to plan, design and construct water system improvements for the Cerro de Guadalupe acequia association in Taos county;~~

~~24. ten thousand dollars (\$10,000) to purchase and equip an excavator for the acequia de Chamisal y Ojito in Taos county;~~

~~25. fifteen thousand dollars (\$15,000) to plan, design and construct compuertas for the acequia del Monte del Rio Chiquito in Taos county; and~~

~~26. twenty thousand dollars (\$20,000) to plan, design and construct dam improvements for the acequia del Monte del Rio Chiquito in Taos county.] *LINE-ITEM VETO*~~

## **Chapter 81 Section 22 Laws 2016**

### **SECTION 22. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--SEVERANCE TAX BONDS.--**

Pursuant to the provisions of Section 1 of this act, upon certification by the local government division of the department of finance and administration that the need exists for the issuance of the bonds, the following amounts are appropriated to the local government division of the department of finance and administration for the following purposes:

1. sixty thousand dollars (\$60,000) to plan, design, construct, furnish and equip Cielo Vista circle park, including xeric features, near Corrales in Bernalillo county;

2. five hundred thousand dollars (\$500,000) to purchase and equip a fire engine for the Bernalillo county fire department in Bernalillo county;

3. ninety-five thousand dollars (\$95,000) to plan, design, purchase, construct and equip improvements, including shade structures, for the North Valley little league fields in Bernalillo county;

4. three hundred forty-five thousand dollars (\$345,000) to plan, design, construct and equip public safety officers' memorials in Bernalillo county;

5. eight hundred seventy-seven thousand five hundred dollars (\$877,500) to purchase and equip vehicles for the sheriff's office in Bernalillo county;

~~[6. one hundred forty-three thousand five hundred dollars (\$143,500) to acquire land for and to plan, design, construct, equip and furnish a gymnasium and youth boxing and wrestling facility, including site preparation, in the south valley area in Bernalillo county;~~

~~7. five thousand dollars (\$5,000) to purchase and install media information technology and equipment and related infrastructure for a community program in the south valley area in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

8. four hundred thousand dollars (\$400,000) to plan, design, renovate and construct phase 1 improvements to the South Valley aquatics facility and pool, including the purchase and installation of related equipment, in the south valley area of Bernalillo county;

9. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate the Alameda little league park, including the purchase and installation of artificial turf, shade structures and scoreboards, in Albuquerque in Bernalillo county;

~~[10. nineteen thousand dollars (\$19,000) to plan, design, construct and renovate Alameda park, including purchase and installation of equipment, in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

11. thirty-three thousand dollars (\$33,000) to plan, design, construct and install a fence at Alamosa park in Albuquerque in Bernalillo county;

12. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the Alamosa skate park on the southwest mesa in Albuquerque in Bernalillo county;

~~[13. thirty-five thousand dollars (\$35,000) to acquire rights of way for and to plan, design, construct, furnish and equip an alternative response station in southeast Albuquerque in Bernalillo county;~~

~~14. nine thousand five hundred dollars (\$9,500) to plan, design, construct and install signage and electrical improvements for a community farmers' market in Alvarado park in Albuquerque in Bernalillo county;~~

~~15. ten thousand dollars (\$10,000) to plan, design, construct and equip a building to house bathroom facilities to comply with the Americans with Disabilities Act of 1990 in Balduini park in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

16. two hundred ninety-five thousand dollars (\$295,000) to acquire property for and to plan, design, construct, furnish and equip a library in city council district 6 in Albuquerque in Bernalillo county;

~~[17. six thousand two hundred dollars (\$6,200) to purchase tools, equipment and fixtures for community bicycle recycling programs in the Atrisco community and southwest area of Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

18. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, improve, furnish and equip Dale Bellamah park in Albuquerque in Bernalillo county;

~~[19. ten thousand dollars (\$10,000) to plan, design, construct, purchase and install security cameras and information technology, including related equipment, furniture and infrastructure, for the Duke City BMX race track in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

20. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct, purchase and install bleachers, shade structures, lighting and dugout benches at the Eastdale little league fields in Albuquerque in Bernalillo county;

21. four hundred fifty-two thousand dollars (\$452,000) to plan, design, construct, equip and furnish phase 1 of Explora's cradle to career learning center and to purchase and install exhibits, furnishings and equipment for the Explora science center and children's museum in Albuquerque in Bernalillo county;

~~[22. one hundred twenty-seven thousand five hundred dollars (\$127,500) to purchase an aerial platform fire apparatus for the fire department in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

23. sixty-two thousand five hundred dollars (\$62,500) to purchase food bank warehouse equipment and related equipment in Albuquerque in Bernalillo county;

~~[24. ninety thousand dollars (\$90,000) to plan, design, construct and furnish phase 1 of a park in the Juan Tabo hills neighborhood in Albuquerque in Bernalillo county;~~

~~25. eighty-five thousand dollars (\$85,000) to plan, design, construct and equip improvements, renovations and a dog park, including demolition and removal of old materials, at the Kirtland park/Thomas Bell community center in Albuquerque in Bernalillo county;~~

~~26. fifty thousand dollars (\$50,000) to repair and improve, including re-sodding, the driving range at the Ladera municipal golf course in Albuquerque in Bernalillo county;~~

~~27. thirty-five thousand dollars (\$35,000) to plan, design, construct and renovate Los Altos pool and park in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

28. fifty-four thousand dollars (\$54,000) to plan, design, construct and repair the parking lot and sidewalks at Los Griegos library in Albuquerque in Bernalillo county;

29. thirty thousand dollars (\$30,000) to plan, design and construct a low-income community health facility in Albuquerque in Bernalillo county;

~~[30. twenty-five thousand dollars (\$25,000) to plan, design, construct and furnish an expansion and bike repair shop to the McKinley community center in Albuquerque in Bernalillo county;~~

~~31. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an indoor aquatics facility at North Domingo Baca park in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

32. fifty thousand dollars (\$50,000) to acquire land for and to plan, design, construct, equip and furnish a library for the northwest mesa in Albuquerque in Bernalillo county;

33. twenty-five thousand dollars (\$25,000) to acquire land for and to plan and design a multigenerational center in the northwest area in Albuquerque in Bernalillo county;

34. four hundred one thousand dollars (\$401,000) to purchase and install security cameras for parks in Albuquerque in Bernalillo county;

35. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, expand, renovate, purchase and install improvements to the Pat Hurley park and community center in Albuquerque in Bernalillo county;

36. one hundred fifteen thousand dollars (\$115,000) to acquire land adjacent to Petroglyph national monument for the open space project in Albuquerque in Bernalillo county;

37. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct and renovate the fields and infrastructure at the Roadrunner little league baseball fields, including the purchase and installation of artificial turf, in Albuquerque in Bernalillo county;

~~[38. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install improvements to the heating, cooling and ventilation system and the roof at the Taylor Ranch library in Albuquerque in Bernalillo county;~~

~~39. fifty-four thousand dollars (\$54,000) to plan, design, construct, repair and improve the parking lot and sidewalks at the Tony Hillerman library in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

40. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to shade structures in the Valley Gardens park in Albuquerque in Bernalillo county;

~~[41. five thousand dollars (\$5,000) to plan, design, purchase, construct and install improvements to Villella park in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

42. one hundred forty-five thousand dollars (\$145,000) to plan, design and construct phase 3 improvements to Vista del Norte park in Albuquerque in Bernalillo county;

43. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Westgate park in Albuquerque in Bernalillo county;

44. one hundred twenty-one thousand two hundred dollars (\$121,200) to plan, design, construct, equip, purchase and install improvements to Zia little league park in southeast Albuquerque in Bernalillo county;

45. one hundred fifty-five thousand five dollars (\$155,005) to plan, design, landscape and construct an Asian American monument in Albuquerque in Bernalillo county;

46. one hundred thirty-nine thousand one hundred dollars (\$139,100) to purchase and equip a refrigerated truck and a box truck for a community food pantry in Albuquerque in Bernalillo county;

47. one hundred forty-five thousand dollars (\$145,000) to purchase equipment and vehicles and to purchase and install information technology, including related equipment, furniture and infrastructure, for a disabilities development center in Albuquerque in Bernalillo county;

48. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate and equip family services facilities, including the purchase and installation of sensory integration habitat and information technology and related equipment, furniture and infrastructure, in Bernalillo county;

~~[49. thirty thousand dollars (\$30,000) to design, construct, purchase and install information technology and telephone upgrades, including related furniture, equipment and infrastructure, for a multipurpose center for low-income women in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

50. four hundred ninety-seven thousand five hundred dollars (\$497,500) to plan, design and construct a courtroom, judge's chambers and jury room in the Bernalillo county metropolitan court in Albuquerque in Bernalillo county;

~~[51. three hundred ten thousand dollars (\$310,000) to plan and design the New Mexico civil justice center in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

52. two hundred two thousand dollars (\$202,000) to acquire land for and to plan, design, construct, purchase, furnish and equip a route 66 visitor center on west Central avenue in Albuquerque in Bernalillo county;

53. three hundred seventy thousand dollars (\$370,000) to plan, design, construct, renovate and improve the facilities, parking lots, fence and fire suppression and water systems at the transitional living and recovery center in Bernalillo county;

54. eighty thousand five hundred dollars (\$80,500) to plan, design, construct and improve bicycle lanes on Rio Grande boulevard between interstate 40 and Matthew avenue in Albuquerque in Bernalillo county;

~~[55. three hundred eighty thousand dollars (\$380,000) to plan, design and construct infrastructure and utilities at the South Valley commons in Bernalillo county;]~~  
*LINE-ITEM VETO*

56. seventy-five thousand dollars (\$75,000) to plan, design and construct building improvements to the Wheels museum in Albuquerque in Bernalillo county;

~~[57. seventy thousand dollars (\$70,000) to purchase an office facility for the Atrisco land grant in Bernalillo county;]~~ *LINE-ITEM VETO*

58. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, furnish and equip a building for the fire department for the Chilili land grant in Bernalillo county;

59. one hundred forty thousand dollars (\$140,000) to plan, design and construct improvements to the building and grounds at Los Ranchos agri-nature center in Los Ranchos de Albuquerque in Bernalillo county;

60. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish improvements to the county courthouse in Reserve in Catron county;

61. twenty-five thousand dollars (\$25,000) to plan, design and construct parking lot improvements at the district 8 volunteer fire department in Chaves county;

62. thirty thousand dollars (\$30,000) to plan, design, construct and install a barrier fence at the Sierra volunteer fire station in Chaves county;

63. seventy-five thousand dollars (\$75,000) to plan, design and construct a basketball court, including the purchase and installation of lighting, in Hagerman in Chaves county;

64. four hundred eighty-eight thousand eight hundred twenty-two dollars (\$488,822) to plan, design and construct roof and structural repairs to buildings at the Roswell international air center in Roswell in Chaves county;

65. one hundred five thousand dollars (\$105,000) to plan, design, construct and renovate the roof and infrastructure at the city hall annex building in Roswell in Chaves county;

66. one hundred ninety-five thousand dollars (\$195,000) to plan, design and construct improvements to the roofs and infrastructure at fire stations in Roswell in Chaves county;

67. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road improvements in the South Park cemetery area in Roswell in Chaves county;

~~68. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, renovate, furnish and equip the county government complex, including the relocation and renovation of the thirteenth judicial district court, in Grants in Cibola county;~~

~~69. eighty thousand dollars (\$80,000) to plan, design and construct improvements to Mirabal Park multipurpose recreational flood control facility, including a storm drain outfall for Uranium avenue and Sand street, in Milan in Cibola county;~~

~~70. twenty-four thousand dollars (\$24,000) to plan, design, construct, furnish and equip the Cimarron multipurpose health clinic and ambulance barn in the south central Colfax county special hospital district in Cimarron in Colfax county;] LINE-ITEM VETO~~

71. eighty-five thousand dollars (\$85,000) to acquire land and buildings and to plan, design, construct and renovate the Enchanted Circle Gateway museum in Eagle Nest in Colfax county;

~~[72. five thousand dollars (\$5,000) to plan, design, renovate and construct improvements to Veterans memorial park in Springer in Colfax county;] LINE-ITEM VETO~~

73. two hundred thousand dollars (\$200,000) to plan, design and construct phase 1 of a fire station for the Broadview fire department in Curry county;

74. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, furnish and improve the facilities, grounds and parking lots, including the purchase and installation of lighting and a solar energy system, at the business enterprise center in Clovis in Curry county;



75. seventy thousand dollars (\$70,000) to repair the foundation of the walk-in freezer and cooler at a regional food bank in Clovis in Curry county;

76. forty thousand dollars (\$40,000) to repair and restore the Atchison, Topeka and Santa Fe 9005 locomotive in the railroad district in Clovis in Curry county;

77. fifty thousand dollars (\$50,000) to plan, design, construct, equip, purchase ~~[and install signage for]~~ a naval memorial in the veterans' park in Clovis in Curry county; *LINE-ITEM VETO*

~~[78. twenty thousand dollars (\$20,000) to plan, design, renovate and construct infrastructure improvements and to purchase animals for the municipal zoo in Clovis in Curry county;~~

~~79. seventy eight thousand five hundred dollars (\$78,500) to plan, design and construct roof improvements at the third judicial district court building in Dona Ana county;]~~ *LINE-ITEM VETO*

80. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the grounds and facilities at Del Cerro park, including the purchase and installation of equipment, in Dona Ana county;

81. two hundred thirty-five thousand dollars (\$235,000) to plan, design and construct improvements to the southern New Mexico fairgrounds, including electrical, plumbing, accessibility and infrastructure improvements, in Dona Ana county;

~~[82. fifty thousand dollars (\$50,000) to plan, design, renovate and construct dorm and day rooms at fire station 2 in Anthony in Dona Ana county;]~~ *LINE-ITEM VETO*

83. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, furnish and equip a park, farmers' market and youth recreation center for the Anthony water and sanitation district in Dona Ana county;

84. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, furnish and equip the sheriff's substation in Anthony in Dona Ana county;

85. one hundred twenty-five thousand dollars (\$125,000) to plan, design, replace, upgrade, purchase and install skate park improvements at Dolores Wright park in Chaparral in Dona Ana county;

~~[86. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and install improvements to the sheriff's substation in Chaparral in Dona Ana county;]~~ *LINE-ITEM VETO*

87. forty thousand dollars (\$40,000) to purchase public works equipment, including a mounted vacuum trailer excavator, for Hatch in Dona Ana county;

88. one hundred thirty-five thousand dollars (\$135,000) to purchase fire training equipment for fire departments in Dona Ana county;

89. four hundred thousand dollars (\$400,000) to plan, design and construct improvements to Radium Springs fire station 8 in Dona Ana county;

90. one hundred thousand dollars (\$100,000) to plan, design, purchase and install a crime data analysis system, including information technology and related equipment, furniture and infrastructure, for the sheriff's department in Dona Ana county;

91. one hundred thousand dollars (\$100,000) for hazardous material abatement at the Amador hotel in Las Cruces in Dona Ana county;

92. two hundred eighty thousand seven hundred thirty-five dollars (\$280,735) to purchase and install electronic records information technology, including related furniture, equipment and infrastructure, for a behavioral health services program in Las Cruces in Dona Ana county;

93. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install camera equipment and information technology, including related equipment, furniture and infrastructure, for the east mesa public safety complex in Las Cruces in Dona Ana county;

94. two hundred fifty thousand dollars (\$250,000) to purchase and install equipment for the fire department in Las Cruces in Dona Ana county;

95. twenty thousand dollars (\$20,000) to plan, design, construct and equip improvements to the fire station kitchen in Las Cruces in Dona Ana county;

96. one hundred thousand dollars (\$100,000) to plan, design and construct electrical infrastructure improvements to Klein park in Las Cruces in Dona Ana county;

97. forty thousand dollars (\$40,000) to plan, design, purchase and install equipment for the Thomas Branigan memorial library in Las Cruces in Dona Ana county;

98. one hundred ninety thousand dollars (\$190,000) to plan, design and construct improvements to Mesquite park, including accessibility and equipment upgrades, in Dona Ana county;

99. one hundred seventy thousand dollars (\$170,000) to purchase and equip fire trucks and police vehicles for Sunland Park in Dona Ana county;

100. one hundred ninety-two thousand five hundred dollars (\$192,500) to plan, design, construct, purchase and install improvements to Guadalupe park in Artesia in Eddy county;

~~[101. ten thousand dollars (\$10,000) to plan, design and construct phase 3 of the Halagueno arts park, including accessibility sidewalks, landscaping and public art, in Carlsbad in Eddy county;]~~ *LINE-ITEM VETO*

102. two hundred fifty thousand dollars (\$250,000) to plan, design, renovate, construct and equip the historic Cavern theater, including accessibility improvements and an addition, in Carlsbad in Eddy county;

103. seventy-five thousand dollars (\$75,000) to purchase and equip a dump truck for the Carlsbad irrigation district in Carlsbad in Eddy county;

104. four hundred eighty-five thousand dollars (\$485,000) to purchase, plan, design and construct a mental health treatment facility in Carlsbad in Eddy county;

105. one hundred eighty-six thousand dollars (\$186,000) to plan, design, construct, furnish and equip a continuum of care drug rehabilitation facility in Grant county;

106. one hundred thousand dollars (\$100,000) to purchase and equip a chip spreader for the road department in Grant county;

107. one hundred thousand dollars (\$100,000) to plan, design and construct recreational facility improvements, including landscaping and the purchase of equipment and furnishings, in Bayard in Grant county;

108. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish improvements for a community center in Hurley in Grant county;

109. one hundred twenty-five thousand dollars (\$125,000) to purchase a portable digital x-ray machine and related equipment for the Gila regional medical center in Silver City in Grant county;

110. thirty-four thousand dollars (\$34,000) to purchase and equip vehicles for the sheriff's office in Guadalupe county;

~~[111. eight thousand dollars (\$8,000) to purchase and install a security system for the fourth judicial district courthouse in Santa Rosa in Guadalupe county;]~~ *LINE-ITEM VETO*

112. one hundred eighty-five thousand dollars (\$185,000) to purchase, plan, design, construct, renovate and equip the Rodeo theater in Santa Rosa in Guadalupe county;

113. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate, landscape, furnish and equip improvements to the Ilfeld warehouse and grounds, including the parking lot, in Santa Rosa in Guadalupe county;

114. one hundred thousand dollars (\$100,000) to purchase and equip police vehicles in Lordsburg in Hidalgo county;

~~[115. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip an animal shelter in Eunice in Lea county;]~~ *LINE-ITEM VETO*

116. sixty thousand dollars (\$60,000) to plan, design, construct and equip mainstreet improvements in Eunice in Lea county;

117. four hundred twenty thousand dollars (\$420,000) to plan, design, construct, renovate, expand and equip the passenger terminal at the Lea county regional airport in Hobbs in Lea county;

118. one hundred eighty-five thousand dollars (\$185,000) to plan, design and construct a little league baseball complex in Jal in Lea county;

119. sixty thousand dollars (\$60,000) to plan, design, construct and equip a multi-jurisdictional judicial complex in Lovington in Lea county;

120. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip an evidence storage facility and an impound parking lot in Lovington in Lea county;

121. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct and furnish a therapy pool expansion for Nor-Lea special hospital district in Lovington in Lea county;

~~[122. twenty thousand dollars (\$20,000) to plan, design and construct repairs in Tatum in Lea county;]~~ *LINE-ITEM VETO*

123. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install improvements to the Capitan depot museum, including the perimeter and entry, in Capitan in Lincoln county;

124. one hundred twenty thousand dollars (\$120,000) to purchase and equip a dump truck and dump trailer for Carrizozo in Lincoln county;

125. sixty thousand dollars (\$60,000) to plan, design, purchase, equip and install a heating and cooling unit in a county-owned building in Ruidoso in Lincoln county;

126. one hundred fifty-four thousand two hundred dollars (\$154,200) to plan, design, construct and equip improvements to the convention center in Ruidoso in Lincoln county;

127. seventy thousand dollars (\$70,000) for fire mitigation, including tree removal, in Ruidoso in Lincoln county;

128. one hundred thousand dollars (\$100,000) to acquire land and easements for and to plan, design, construct, install and equip recreational facilities and improvements in Ruidoso in Lincoln county;

129. two hundred thirty thousand dollars (\$230,000) to plan, design and construct improvements, including roof repair and replacement, for the Hubbard museum of the American west in Ruidoso Downs in Lincoln county;

130. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, equip and furnish the county annex in Deming in Luna county;

~~[131. forty thousand dollars (\$40,000) to plan, design and construct an inland port in McKinley county;]~~ *LINE-ITEM VETO*

132. fifty thousand dollars (\$50,000) to plan, design and construct improvements to power distribution and lighting in Indian Hills park in Gallup in McKinley county;

133. two hundred eighty-five thousand dollars (\$285,000) to purchase and equip police vehicles for Gallup in McKinley county;

134. one hundred ninety-five thousand dollars (\$195,000) to acquire property for and to plan, design and construct a skateboard park in Gallup in McKinley county;

~~[135. ten thousand dollars (\$10,000) to purchase and install a wrestling mat for the parks and recreation department in Gallup in McKinley county;]~~

~~136. ninety thousand dollars (\$90,000) to purchase and renovate a building for the northwest New Mexico council of governments in Gallup in McKinley county;~~

~~137. twenty thousand dollars (\$20,000) to plan and design a multipurpose development in Thoreau in McKinley county;]~~ *LINE-ITEM VETO*

138. two hundred ten thousand dollars (\$210,000) to plan, design, construct and equip the veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county;

~~[139. twenty-five thousand dollars (\$25,000) to purchase and equip vehicles for the sheriff's department in Mora county;] *LINE-ITEM VETO*~~

140. one hundred thousand dollars (\$100,000) to purchase and equip a snow removal vehicle in Mora county;

141. fifty thousand dollars (\$50,000) to purchase and equip an ambulance in Mora county;

~~[142. forty-five thousand dollars (\$45,000) to plan, design, construct and equip a community theater in Mora in Mora county;] *LINE-ITEM VETO*~~

143. eighty thousand dollars (\$80,000) to purchase equipment for improving canal delivery efficiency in the Arch Hurley conservancy district in Quay and San Miguel counties;

144. two hundred seventy-five thousand dollars (\$275,000) to design and construct a fiber-optic pathway from Santa Fe to Los Alamos in Santa Fe and Los Alamos counties;

145. ninety-three thousand dollars (\$93,000) to purchase and equip buses for the north central regional transit district in Santa Fe, Taos, Rio Arriba and Los Alamos counties;

146. two hundred forty-five thousand dollars (\$245,000) to plan, design, construct, renovate and improve the family recreation center locker rooms in Alamogordo in Otero county;

147. two hundred thousand dollars (\$200,000) to purchase and equip vehicles ~~[and to purchase information technology, including related equipment, furniture and infrastructure,]~~ for the police department in Alamogordo in Otero county; *LINE-ITEM VETO*

148. ninety-four thousand six hundred dollars (\$94,600) to plan, design, construct and equip a kitchen in the community center in Chaparral in Otero county;

149. twenty-five thousand six hundred dollars (\$25,600) to plan, design and construct a fence, including gates, around the Sacramento Mountains museum in Cloudcroft in Otero county;

150. thirty-five thousand dollars (\$35,000) to plan, design and construct an addition to the tack barn at the Sacramento Mountains museum in Cloudcroft in Otero county;

151. one hundred thousand dollars (\$100,000) to purchase and equip a dump truck for the Timberon water and sanitation district in Otero county;

~~[152. thirty thousand dollars (\$30,000) to purchase a greens mower for the Timberon water and sanitation district golf course in Otero county;] LINE-ITEM VETO~~

153. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements, including dog walks, fencing and security, to the animal shelter in Tularosa in Otero county;

154. one hundred fifty thousand dollars (\$150,000) to plan, design, renovate and construct the district attorney's office in Tucumcari in Quay county;

155. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the kitchens at the Chimayo and Hernandez community centers in Rio Arriba county;

156. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct and equip improvements, renovations and expansion of the county rural events center in Abiquiu in Rio Arriba county;

157. forty thousand dollars (\$40,000) to plan, design and construct a cemetery in Alcalde in Rio Arriba county;

158. fifteen thousand dollars (\$15,000) to purchase and install storage units for the San Joaquin del Rio de Chama land grant in Capulin in Rio Arriba county;

159. sixteen thousand dollars (\$16,000) to purchase and equip a vehicle for the disabled American veterans chapter 22 in Espanola in Rio Arriba county;

160. eighty-two thousand dollars (\$82,000) to plan, design and construct improvements, including bathrooms and concession stands, to the sportsplex in Espanola in Rio Arriba county;

161. eighty-six thousand dollars (\$86,000) to plan, design, construct and plumb a water storage cistern for the Abiquiu volunteer fire department substation in Medanales in Rio Arriba county;

162. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, expand and equip the county detention center in Tierra Amarilla in Rio Arriba county;

163. sixty thousand dollars (\$60,000) to purchase and equip vehicles for the sheriff's office in Roosevelt county;

164. one hundred thousand dollars (\$100,000) to purchase and equip a loader for Portales in Roosevelt county;

~~[165. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, furnish and equip an expansion at the Roosevelt general hospital for the Roosevelt county special hospital district in Portales in Roosevelt county;] *LINE-ITEM VETO*~~

166. one hundred fourteen thousand seven hundred fifty-nine dollars (\$114,759) to purchase and equip a dump truck and trailer for the San Juan river Dineh water users on the Navajo Nation in Shiprock in San Juan county;

167. fifteen thousand dollars (\$15,000) to plan, design, construct and renovate the exhibit hall roof and insulation, including the purchase and installation of related equipment, at the San Miguel county fairgrounds in San Miguel county;

~~[168. twenty thousand dollars (\$20,000) to plan, design, construct and equip the Fire Station museum in Las Vegas in San Miguel county;~~

~~169. ten thousand dollars (\$10,000) to plan, design and construct improvements to the police department firing range facility in Las Vegas in San Miguel county;] *LINE-ITEM VETO*~~

170. one hundred eight thousand dollars (\$108,000) to purchase and equip vehicles for the police department in Las Vegas in San Miguel county;

~~[171. ten thousand dollars (\$10,000) to plan, design and construct improvements to the kitchens, laundry rooms and showers, including the purchase and installation of related equipment, for the county detention center in Las Vegas in San Miguel county;] *LINE-ITEM VETO*~~

172. thirty-five thousand dollars (\$35,000) to purchase and equip a vehicle for the maintenance operations staff in Las Vegas in San Miguel county;

~~[173. twenty thousand dollars (\$20,000) to purchase and equip vehicles for the sheriff's department in San Miguel county;~~

~~174. one hundred fifty-nine thousand nine hundred ninety dollars (\$159,990) to plan and design renovations to the Roosevelt complex for an economic development campus in Bernalillo in Sandoval county;] *LINE-ITEM VETO*~~

175. forty thousand dollars (\$40,000) to plan, design, construct and improve sports facilities in Bernalillo in Sandoval county;

176. one hundred ninety-five thousand dollars (\$195,000) to purchase and equip vehicles for the sheriff's department in Sandoval county;

177. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip an historic church ceiling and roof, a septic system and wastewater



system connections and rain management infrastructure for the annex building in Corrales in Sandoval county;

178. one hundred sixty-seven thousand dollars (\$167,000) to plan, design, construct and equip a kitchen at the main fire station in Corrales in Sandoval county;

~~[179. seventy-five thousand dollars (\$75,000) to purchase land for and to plan, design, construct and furnish municipal facilities in Corrales in Sandoval county;]~~  
*LINE-ITEM VETO*

180. one hundred forty-five thousand dollars (\$145,000) to purchase and equip public safety, code enforcement, police and off-road utility vehicles for Corrales in Sandoval county;

181. twenty-five thousand dollars (\$25,000) to plan and design a geothermal heating system for village facilities in Jemez Springs in Sandoval county;

182. fifty thousand dollars (\$50,000) to plan, design, construct and renovate the Cibola sports complex in Rio Rancho in Sandoval county;

183. sixty-eight thousand ten dollars (\$68,010) to purchase emergency medical equipment for the fire and rescue department in Rio Rancho in Sandoval county;

~~[184. fifty-one thousand dollars (\$51,000) to purchase and equip a ladder truck for the fire and rescue department in Rio Rancho in Sandoval county;]~~ *LINE-ITEM VETO*

185. forty thousand dollars (\$40,000) to plan, design and construct improvements to baseball fields at the north complex in Rio Rancho in Sandoval county;

186. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct an evidence storage facility for the police department in Rio Rancho in Sandoval county;

187. three hundred eight thousand five hundred dollars (\$308,500) to purchase and equip vehicles for the police department in Rio Rancho in Sandoval county;

188. forty thousand dollars (\$40,000) to plan, design, purchase, construct and install shade structures and scoreboards at Sunset little league facilities in Rio Rancho in Sandoval county;

189. forty-three thousand dollars (\$43,000) to purchase equipment for public works maintenance and to purchase and equip a street sweeper for the Pueblo of Sandia in Sandoval county;

190. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an addition to the Chimayo fire station in Chimayo in Santa Fe county;

191. two hundred forty-two thousand dollars (\$242,000) to plan, design and construct a health care facility in the east mountain area in Santa Fe county;

~~[192. fifty thousand dollars (\$50,000) to purchase and equip a road maintenance water truck for the road crew in Edgewood in Santa Fe county;]~~ *LINE-ITEM VETO*

193. one hundred five thousand five hundred dollars (\$105,500) to acquire land for and to plan and design fire station 4 in Eldorado in Santa Fe county;

194. fifty thousand dollars (\$50,000) to plan, design and construct an American Civil War monument, including the purchase and installation of information technology and related equipment, furniture and infrastructure, in Glorieta in Santa Fe county;

195. one hundred twenty-two thousand dollars (\$122,000) to plan, design, construct and equip improvements to the fire station in Madrid in Santa Fe county;

196. one hundred thirty-seven thousand dollars (\$137,000) to plan, design, construct and equip improvements to the Pojoaque recreation complex in the Pojoaque valley in Santa Fe county;

197. eighty-four thousand dollars (\$84,000) to plan, design and construct a retaining wall at La Comunidad de los Ninos head start center in Santa Fe in Santa Fe county;

198. seventy-eight thousand dollars (\$78,000) to purchase and install equipment for the dance barns facility in Santa Fe in Santa Fe county;

199. two hundred thirty thousand dollars (\$230,000) to plan, design, renovate, construct, improve and equip a facility for a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;

~~[200. fifty thousand dollars (\$50,000) to acquire, plan, design, construct, renovate, equip and furnish the soccer fields and facilities at the municipal recreation complex in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETO*

201. eight hundred fifty-five thousand dollars (\$855,000) to plan, design and construct an expansion to the municipal airport terminal building in Santa Fe in Santa Fe county;

202. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a regional animal shelter in Sierra county;

~~[203. twenty-five thousand dollars (\$25,000) to plan, design and install improvements to the heating and cooling system in the Geronimo Springs historical museum in Truth or Consequences in Sierra county;] LINE-ITEM VETO~~

204. one hundred one thousand dollars (\$101,000) to plan, design, construct and equip an animal shelter in Truth or Consequences in Sierra county;

205. thirty-five thousand dollars (\$35,000) to plan, design and construct feeder upgrades to the electrical system in Truth or Consequences in Sierra county;

206. two hundred ninety thousand dollars (\$290,000) to plan, design, construct and equip a covered rodeo facility and a soccer facility in Socorro in Socorro county;

207. twenty-five thousand dollars (\$25,000) to purchase vehicles and equipment for the sheriff's department in Taos county;

208. one hundred ten thousand dollars (\$110,000) to plan, design, construct and equip a veterans cemetery in Taos county;

209. twenty thousand dollars (\$20,000) to plan, design and construct a community center in Amalia in Taos county;

210. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip a street sweeper for the public works department in Red River in Taos county;

~~[211. seventy-nine thousand dollars (\$79,000) to plan, design, construct, renovate and equip a regional animal shelter, including the purchase and installation of related equipment, in Taos in Taos county;] LINE-ITEM VETO~~

212. one hundred thousand dollars (\$100,000) to plan, design, renovate, furnish and equip a facility for the northern New Mexico land grant and acequia archives, including the purchase and installation of information technology and related equipment, furniture and infrastructure, in Taos county;

213. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, equip and furnish the old county courthouse in Taos in Taos county;

214. ten thousand dollars (\$10,000) to repair, renovate and install equipment at the community center in La Merced del Pueblo de Tajique in Torrance county;

215. seventy-five thousand dollars (\$75,000) to purchase and equip powered gurneys, including retrofitting of ambulances, for the fire department in Moriarty in Torrance county;

216. three hundred thousand dollars (\$300,000) to plan, design and construct a fire department training facility, including the purchase and installation of related equipment, in Moriarty in Torrance county;

217. twenty-five thousand dollars (\$25,000) to plan, design, construct, landscape and furnish a veterans memorial in the city park in Moriarty in Torrance county;

218. thirty-five thousand dollars (\$35,000) to plan, design, construct and replace the mainstreet lighting system on the route 66 corridor in Moriarty in Torrance county;

219. eighty-five thousand dollars (\$85,000) to construct a metal shop building for the Claunch-Pinto soil and water conservation district in Mountainair in Torrance county;

220. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and install equipment for preserving land records and tax schedules in Union county;

~~[221. thirty-five thousand dollars (\$35,000) to purchase and equip a vehicle for Union county;]~~ *LINE-ITEM VETO*

222. ninety-seven thousand dollars (\$97,000) to plan, design, construct and equip an expansion to the county animal shelter in Valencia county;

223. seventy thousand dollars (\$70,000) to plan, design and construct a veterans memorial at Eagle park in Belen in Valencia county;

224. four hundred fifteen thousand dollars (\$415,000) to plan, design, construct, improve and equip Vivian Fields facilities, including concessions, restrooms and storage facilities, in Belen in Valencia county;

225. thirty-four thousand five hundred dollars (\$34,500) to plan, design and construct improvements and an addition to the maintenance building at the Whitfield wildlife conservation area in the Valencia county soil and water conservation district in Valencia county;

~~[226. five thousand dollars (\$5,000) to purchase and install equipment in the kitchen at the community center and senior meal site in Bosque Farms in Valencia county;]~~ *LINE-ITEM VETO*

227. one hundred thousand dollars (\$100,000) to plan, design and construct renovations to the Don Jose Dolores Cordova cultural center in Jarales in Valencia county;

228. two hundred twenty thousand dollars (\$220,000) to design and construct a sports complex for the Enchantment little league, including concessions, restrooms, a gateway, parking, fencing, drainage and field improvements, in Los Lunas in Valencia county;

229. two hundred forty thousand dollars (\$240,000) to purchase and equip vehicles for the sheriff's office in Valencia county;

230. thirty thousand dollars (\$30,000) to plan, design and construct facilities, including picnic areas, playgrounds and bathrooms, at a park in the Meadow Lake area of Valencia county;

231. fifty thousand dollars (\$50,000) to purchase heavy equipment for the public works department in Peralta in Valencia county;

232. eighty thousand dollars (\$80,000) to plan, design and construct improvements to the town hall administrative and public works buildings in Peralta in Valencia county; and

233. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, furnish and equip phase 3 of the municipal multipurpose complex, including improving the electrical, mechanical, communications and fire suppression systems, in Rio Communities in Valencia county.

## **Chapter 81 Section 23 Laws 2016**

SECTION 23. DEPARTMENT OF PUBLIC SAFETY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of public safety that the need exists for the issuance of the bonds, three million dollars (\$3,000,000) is appropriated to the department of public safety to purchase and equip law enforcement vehicles statewide.

## **Chapter 81 Section 24 Laws 2016**

SECTION 24. DEPARTMENT OF TRANSPORTATION PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the department of transportation that the need exists for the issuance of the bonds, the following amounts are appropriated to the department of transportation for the following purposes:

1. nine hundred forty-eight thousand dollars (\$948,000) to acquire rights of way and to design and construct paseo del Volcan, also known as New Mexico highway 347, in Sandoval and Bernalillo counties;

~~[2. twenty-seven thousand dollars (\$27,000) to plan, design and construct road and drainage improvements at the termini of Greenwich road in the southwest valley in Bernalillo county;] LINE-ITEM VETO~~

3. seventy-seven thousand five hundred dollars (\$77,500) to plan, design, construct and equip road and drainage improvements to Hooper road southwest in Bernalillo county;

4. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Quail Run road, Quail Run court and Covey court in Bernalillo county;

5. three hundred thousand dollars (\$300,000) to plan, design and construct road, sidewalk and drainage improvements, including the purchase and installation of related equipment ~~[and signage]~~, to Sunset road southwest in Bernalillo county; *LINE-ITEM VETO*

~~[6. twenty-five thousand dollars (\$25,000) to plan, design and construct pedestrian and road improvements, including median and accessibility improvements, to the uptown area in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

7. two hundred ninety-five thousand dollars (\$295,000) to plan, design and construct an access road to Atrisco Heritage academy high school, including driveways, trail connections and modifications to Senator Dennis Chavez boulevard and to 118th street, in Albuquerque in Bernalillo county;

8. five hundred eighteen thousand dollars (\$518,000) to acquire rights of way and to plan, design, construct and landscape Ladera drive northwest, including pedestrian and traffic control measures, between Gavin drive and Coors boulevard in Albuquerque in Bernalillo county;

~~[9. five thousand dollars (\$5,000) to plan, design and construct median and intersection improvements, including landscaping and signage, at Morningside drive northeast and Avenida del Sol northeast in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

10. one hundred fifty thousand dollars (\$150,000) to plan, design, equip and construct a traffic signal at the intersection of Paradise boulevard and La Paz drive in Albuquerque in Bernalillo county;

~~[11. fifteen thousand dollars (\$15,000) to plan, design, construct, purchase and install improvements and lighting on San Pedro drive between Lomas boulevard and interstate 40 in Albuquerque in Bernalillo county;] LINE-ITEM VETO~~

12. seventy thousand dollars (\$70,000) to acquire rights of way for and to plan, design and construct improvements to west Central avenue in the west Central metropolitan redevelopment district in Albuquerque in Bernalillo county;

13. two hundred fifty thousand dollars (\$250,000) to acquire rights of way and land and to plan, design, construct and improve Fourth street in Los Ranchos de Albuquerque in Bernalillo county;

14. one hundred sixty-seven thousand four hundred twenty-eight dollars (\$167,428) to plan, design and construct improvements to Hobson road between Menominee road and United States highway 285 in Chaves county;

15. forty-nine thousand five hundred dollars (\$49,500) to plan, design and construct a railroad water crossing in Hagerman in Chaves county;

16. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the roads and sidewalks in Roswell in Chaves county;

17. two hundred twenty-one thousand dollars (\$221,000) to plan, design and construct the George Hanosh bridge in Grants in Cibola county;

18. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and improve streets in Raton in Colfax county;

19. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to county roads 4, 10, D and V in Curry county;

20. two hundred eighty-five thousand dollars (\$285,000) to plan, design and construct phase 1 (A) improvements to Seventh street from Norris street to the Ingram channel in Clovis in Curry county;

21. one hundred thirty-five thousand dollars (\$135,000) to plan, design and construct road improvements at the municipal airport in Clovis in Curry county;

22. two hundred thousand dollars (\$200,000) to plan, design and construct an all-weather road on county road I in Clovis in Curry county;

23. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to county roads in De Baca county;

~~[24. fifty thousand dollars (\$50,000) to develop a corridor study of north Baylor Canyon road south of Organ in Dona Ana county;] *LINE-ITEM VETO*~~

25. two hundred fifty-five thousand dollars (\$255,000) to plan, design and construct phase 1 improvements, including upgrades and reconstruction, of runway 10-28 at the international jetport in Dona Ana county;

~~[26. twelve thousand seven hundred sixty-five dollars (\$12,765) to plan and design sidewalks on county roads in La Union in Dona Ana county;] LINE-ITEM VETO~~

27. two hundred thousand dollars (\$200,000) to plan, design and construct sidewalk and road improvements in Anthony in Dona Ana county;

28. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct road and drainage improvements in the Berino area in Dona Ana county;

~~[29. fifty thousand dollars (\$50,000) to plan, design and construct improvements to Charolais drive in Las Cruces in Dona Ana county;] LINE-ITEM VETO~~

30. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design and construct road improvements and flood control utilities on Harrelson street in Las Cruces in Dona Ana county;

31. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to Las Cruces avenue from Campos street to Tornillo street in Las Cruces in Dona Ana county;

32. seven hundred sixty-six thousand dollars (\$766,000) to acquire rights of way and to plan, design and construct road and flood control improvements in Las Cruces in Dona Ana county;

33. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install traffic system network improvements in Las Cruces in Dona Ana county;

~~[34. seventy-seven thousand five hundred dollars (\$77,500) to plan, design and construct improvements to the Picacho Hills area, including drainage improvements along Via Norte, in Las Cruces in Dona Ana county;] LINE-ITEM VETO~~

35. two hundred sixty thousand dollars (\$260,000) to plan, design, purchase and install a high-intensity activated crosswalk system along University avenue in Las Cruces in Dona Ana county;

~~[36. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Mesilla road in Mesilla in Dona Ana county;~~

~~37. seventy-five thousand dollars (\$75,000) to acquire rights of way and to plan, design and construct the University avenue multimodal path in Mesilla in Dona Ana county;~~



~~38. thirty-one thousand dollars (\$31,000) to plan, design, purchase, construct and install energy-efficient street lighting in Sunland Park in Dona Ana county;] *LINE-ITEM VETO*~~

39. two hundred five thousand dollars (\$205,000) to plan, design, purchase, construct and install street and drainage improvements, including information technology for street pavement management and related equipment, furniture and infrastructure, for Sunland Park in Dona Ana county;

40. two hundred thousand dollars (\$200,000) to plan, design and construct sidewalks, curbs and gutters in Tortugas in Dona Ana county;

~~[41. one hundred twenty-five thousand dollars (\$125,000) to develop a corridor study for the Sal Si Puedes neighborhood in Vado in Dona Ana county;]~~

~~42. one hundred thousand dollars (\$100,000) to plan, design and construct phase 1 improvements to Texas street in Carlsbad in Eddy county;] *LINE-ITEM VETO*~~

43. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and repair sidewalks in Silver City in Grant county;

44. twenty thousand dollars (\$20,000) to plan, design and construct improvements to roads in Mosquero in Harding county;

45. two hundred thousand dollars (\$200,000) to plan, design and construct street improvements, including drainage and sidewalks to comply with the Americans with Disabilities Act of 1990, on Fifth street in Lordsburg in Hidalgo county;

46. one hundred four thousand dollars (\$104,000) to plan, design and construct improvements, including resurfacing, to streets in Capitan in Lincoln county;

~~[47. one hundred eighty-five thousand dollars (\$185,000) to develop a federal highway administration interstate access control request for the Cedar street connection in Deming in Luna county;] *LINE-ITEM VETO*~~

48. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to roads in Deming in Luna county;

49. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a multi-use path along Florida street between New Mexico highway 11 and Eighth street in Deming in Luna county;

~~[50. eighty-five thousand dollars (\$85,000) to acquire rights of way and to plan, design, construct, repair and improve bridges in McKinley county;] *LINE-ITEM VETO*~~

51. ninety thousand dollars (\$90,000) to plan, design and construct a road to the Baahaali Chichiltah regional solid waste collection and recycling center in the Baahaali chapter of the Navajo Nation in McKinley county;

~~[52. seventy thousand dollars (\$70,000) to plan, design, construct and improve county road 16 in McKinley county;] LINE-ITEM VETO~~

53. sixty-six thousand dollars (\$66,000) to plan, design and construct improvements to Carbon Coal road in McKinley county;

~~[54. fifty thousand dollars (\$50,000) to plan and design an overpass and roundabout at the intersection of Sweetwater and Burnt Corn roads and United States route 66 in the Iyanbito chapter of the Navajo Nation in McKinley county;~~

~~55. one hundred thousand dollars (\$100,000) to plan, design and construct crossings over Rio Puerco wash and Major wash on Old Church Rock Mine road for the Pinedale chapter of the Navajo Nation in McKinley county;] LINE-ITEM VETO~~

56. one hundred twenty thousand dollars (\$120,000) to plan, design and construct improvements to Shondeen drive in the Rock Springs chapter of the Navajo Nation in McKinley county;

57. two hundred thousand dollars (\$200,000) to acquire rights of way and to plan and design a bridge over the San Juan river in the Fruitland area of the San Juan chapter of the Navajo Nation in San Juan county;

58. two hundred thousand dollars (\$200,000) to plan, design, purchase, construct and install improvements to street lighting, including a traffic signal, in the Shiprock chapter of the Navajo Nation in San Juan county;

~~[59. five thousand dollars (\$5,000) to plan, design and construct improvements to Pendaries Village lane and San Miguel county road A34 in the area of Pendaries in San Miguel county;] LINE-ITEM VETO~~

60. one hundred sixty thousand dollars (\$160,000) to plan, design, construct and improve county roads and bridges in San Miguel county;

61. five hundred eighty thousand dollars (\$580,000) to purchase rights of way for paseo del Volcan from Unser boulevard to the Bernalillo-Sandoval county line;

62. five hundred sixty-five thousand dollars (\$565,000) to acquire rights of way for and to plan, design and construct a Lincoln avenue extension from Adams lane to paseo del Volcan in Rio Rancho in Sandoval county;

~~[63. forty-five thousand dollars (\$45,000) to plan, design and construct improvements to Antonio lane in Agua Fria in Santa Fe county;] *LINE-ITEM VETO*~~

64. seventy thousand dollars (\$70,000) to plan, design and construct improvements to Alamo lane in Agua Fria in Santa Fe county;

65. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the water crossing at Los Pinos road, also known as county road 54, and Arroyo Hondo in La Cienega in Santa Fe county;

66. ninety-five thousand dollars (\$95,000) to plan, design and construct road improvements in La Tierra subdivision in Santa Fe county;

67. one hundred thousand dollars (\$100,000) to plan, design and construct road improvements in Eldorado in Santa Fe county;

68. one hundred eighty-five thousand dollars (\$185,000) to plan, design, construct and improve Enterprise road, Grefco road and the Socorro county detention center fire loop and parking lot in Socorro in Socorro county;

~~[69. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct road improvements, including drainage control at Mission Park loop, in Valencia county;] and *LINE-ITEM VETO*~~

70. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct an extension of Camelot boulevard to Morris road in Los Lunas in Valencia county.

## **Chapter 81 Section 25 Laws 2016**

SECTION 25. HIGHER EDUCATION DEPARTMENT PROJECTS-- SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the higher education department that the need exists for the issuance of the bonds, the following amounts are appropriated to the higher education department for the following purposes:

1. one hundred forty thousand dollars (\$140,000) to purchase and install equipment for the allied health nursing program at New Mexico junior college in Hobbs in Lea county;

2. twenty-five thousand dollars (\$25,000) to purchase information technology, including related equipment, furniture and infrastructure, for mathematics, engineering and science achievement programs in McKinley, Bernalillo, Roosevelt, Dona Ana, Otero and Chaves counties;

3. one hundred five thousand dollars (\$105,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mesalands community college in Tucumcari in Quay county;

4. forty-five thousand dollars (\$45,000) to purchase and equip vehicles for Luna community college in Las Vegas in San Miguel county;

5. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the plant operations and maintenance office, including the purchase and installation of equipment, at Santa Fe community college in Santa Fe county;

6. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip facility improvements and to purchase and install science-on-a-sphere information technology, including related equipment, furniture and infrastructure, at Santa Fe community college in Santa Fe county; and

7. two hundred forty-five thousand dollars (\$245,000) to purchase and install automotive equipment for Santa Fe community college in Santa Fe county.

## **Chapter 81 Section 26 Laws 2016**

SECTION 26. EASTERN NEW MEXICO UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of eastern New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of eastern New Mexico university for the following purposes:

1. thirty thousand dollars (\$30,000) to purchase and equip trucks for the physical plant department at the Roswell branch of eastern New Mexico university in Chaves county;

2. forty-two thousand eight hundred forty dollars (\$42,840) to purchase and equip a skid steer loader for the physical plant department at the Roswell branch of eastern New Mexico university in Chaves county;

3. two hundred fifty-six thousand dollars (\$256,000) to plan, design, construct and equip a multipurpose stadium at eastern New Mexico university in Portales in Roosevelt county; and

4. one hundred thirty-five thousand dollars (\$135,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for the student instructional laboratories at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 81 Section 27 Laws 2016**

SECTION 27. NEW MEXICO HIGHLANDS UNIVERSITY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico highlands university that the need exists for the issuance of the bonds, one hundred eleven thousand dollars (\$111,000) is appropriated to the board of regents of New Mexico highlands university for site improvements and to plan, design, construct, renovate, landscape and equip athletic department facilities, including purchasing and equipping vehicles, at New Mexico highlands university in Las Vegas in San Miguel county.

### **Chapter 81 Section 28 Laws 2016**

SECTION 28. NEW MEXICO MILITARY INSTITUTE PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the New Mexico military institute that the need exists for the issuance of the bonds, two hundred twenty thousand dollars (\$220,000) is appropriated to the board of regents of the New Mexico military institute to plan, design, construct, renovate and improve the stoops and walkways at the Hagerman and Saunders barracks and barracks area for the New Mexico military institute in Roswell in Chaves county.

### **Chapter 81 Section 29 Laws 2016**

SECTION 29. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECT--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the New Mexico institute of mining and technology that the need exists for the issuance of the bonds, ninety thousand dollars (\$90,000) is appropriated to the board of regents of the New Mexico institute of mining and technology to purchase and install equipment and furnishings in Jones hall at the New Mexico institute of mining and technology in Socorro in Socorro county.

### **Chapter 81 Section 30 Laws 2016**

SECTION 30. NEW MEXICO STATE UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of New Mexico state university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of New Mexico state university for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and install the fire sprinkler system at the weight-training facility at New Mexico state university in Las Cruces in Dona Ana county;
2. forty-five thousand dollars (\$45,000) to plan, design and construct a storage building for the east Rio Arriba soil and water conservation district in Hernandez in Rio Arriba county;

3. fifty thousand dollars (\$50,000) to plan, design, renovate and construct improvements to reservoirs in the Coronado soil and water conservation district in Sandoval county[; and

~~4. ten thousand dollars (\$10,000) to purchase and equip a vehicle for the McKinley soil and water conservation district in McKinley county].~~ *LINE-ITEM VETO*

## **Chapter 81 Section 31 Laws 2016**

SECTION 31. UNIVERSITY OF NEW MEXICO PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of the university of New Mexico that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of the university of New Mexico for the following purposes:

1. one hundred thousand dollars (\$100,000) to purchase and install equipment for the athletic training room at the university of New Mexico in Albuquerque in Bernalillo county;

2. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, purchase, install and equip improvements to the baseball facility at the university of New Mexico in Albuquerque in Bernalillo county;

3. five hundred thirty-one thousand dollars (\$531,000) to plan, design, construct, purchase, equip and improve communications equipment and infrastructure at the basketball arena for the university of New Mexico in Albuquerque in Bernalillo county;

4. eighty-five thousand dollars (\$85,000) to plan, design, construct and expand the Charlie Morrissey research hall and to purchase and install information technology, including related equipment, furniture and infrastructure, at the university of New Mexico in Albuquerque in Bernalillo county;

5. one hundred thousand dollars (\$100,000) to purchase and install equipment at the Craig Robertson soccer complex at the university of New Mexico in Albuquerque in Bernalillo county;

6. three hundred forty-five thousand dollars (\$345,000) to plan, design, construct, renovate and equip lighting improvements at the football and soccer stadium at the university of New Mexico in Albuquerque in Bernalillo county;

7. seventy thousand five hundred dollars (\$70,500) to purchase and install advanced simulated patients for the health professionals pipeline program for the university of New Mexico in Albuquerque in Bernalillo county;

8. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish the lesbian, gay, bisexual, transgender and questioning resource center at the university of New Mexico in Albuquerque in Bernalillo county;

9. one hundred thirty-five thousand dollars (\$135,000) to plan, design, construct, renovate, furnish and equip the linguistics laboratory at the university of New Mexico in Albuquerque in Bernalillo county;

10. eighty-eight thousand dollars (\$88,000) to purchase and install a dicer for the manufacturing engineering program at the university of New Mexico in Albuquerque in Bernalillo county;

11. three hundred twenty thousand dollars (\$320,000) to plan, design, restore, construct, equip, install and furnish phase 3 improvements, including erosion and storm water damage control and remediation measures, restoration of historical structures and the purchase and installation of [~~signage and~~] benches, to the university of New Mexico north golf course urban open space area in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

12. four hundred five thousand four hundred dollars (\$405,400) to plan, design, construct, renovate and improve the restroom facilities at Popejoy hall for the university of New Mexico in Albuquerque in Bernalillo county;

~~[13. forty thousand dollars (\$40,000) to purchase and install equipment for the rugby team at the university of New Mexico in Albuquerque in Bernalillo county;]~~  
*LINE-ITEM VETO*

14. one hundred twenty thousand dollars (\$120,000) to purchase and install safety lighting at the university of New Mexico in Albuquerque in Bernalillo county;

15. one hundred thirty-five thousand dollars (\$135,000) to plan, design and construct improvements, including purchase and installation of furnishings and equipment, at the school of law at the university of New Mexico in Albuquerque in Bernalillo county;

16. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and install improvements, including replacing the sound system, at University stadium at the university of New Mexico in Albuquerque in Bernalillo county;

17. forty thousand dollars (\$40,000) to plan, design, construct, renovate and equip lighting at the stadium for the university of New Mexico in Albuquerque in Bernalillo county; and

18. ninety-five thousand dollars (\$95,000) to plan, design, construct, renovate and repair the Harwood museum, including purchase and installation of

equipment and fixtures, at the Taos branch campus of the university of New Mexico in Taos in Taos county.

## **Chapter 81 Section 32 Laws 2016**

SECTION 32. WESTERN NEW MEXICO UNIVERSITY PROJECTS--SEVERANCE TAX BONDS.--Pursuant to the provisions of Section 1 of this act, upon certification by the board of regents of western New Mexico university that the need exists for the issuance of the bonds, the following amounts are appropriated to the board of regents of western New Mexico university for the following purposes:

1. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct, purchase and install emergency telephone poles campuswide, including related information technology, equipment, furniture and infrastructure, at western New Mexico university in Silver City in Grant county[; and

~~2. eighty-five thousand dollars (\$85,000) to acquire property on west 12th street for western New Mexico university in Silver City in Grant county].~~ *LINE-ITEM VETO*

## **Chapter 81 Section 33 Laws 2016**

SECTION 33. BORDER AUTHORITY PROJECT--APPROPRIATION FROM THE FIRE PROTECTION GRANT FUND.--Notwithstanding the provisions of the Fire Protection Fund Law to the contrary, one million one hundred thousand dollars (\$1,100,000) is appropriated from the fire protection grant fund for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to acquire land for and to plan, design, construct, equip and furnish a fire station at the Santa Teresa airport in Dona Ana county.

## **Chapter 81 Section 34 Laws 2016**

SECTION 34. DEPARTMENT OF GAME AND FISH PROJECTS--APPROPRIATIONS FROM THE GAME PROTECTION FUND.--The following amounts are appropriated from the game protection fund to the department of game and fish for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for the following purposes:

1. seven million dollars (\$7,000,000) to acquire land and to plan, design, construct, furnish and equip area offices in Albuquerque in Bernalillo county and in Roswell in Chaves county;

2. five million five hundred thousand dollars (\$5,500,000) to plan, design and construct improvements related to safety compliance at state-game-commission-owned dams and lakes and associated dams and spillways statewide; and



3. one million dollars (\$1,000,000) to plan, design, construct and improve new and existing shooting ranges statewide.

### **Chapter 81 Section 35 Laws 2016**

SECTION 35. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE BIG GAME ENHANCEMENT FUND OF THE GAME PROTECTION FUND.--Five hundred thousand dollars (\$500,000) is appropriated from the big game enhancement account of the game protection fund to the department of game and fish for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for fisheries renovation and wildlife and riparian habitat restoration statewide.

### **Chapter 81 Section 36 Laws 2016**

SECTION 36. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE SIKES ACT ACCOUNT OF THE GAME PROTECTION FUND.--One million dollars (\$1,000,000) is appropriated from the Sikes Act account of the game protection fund to the department of game and fish for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for fisheries renovation and wildlife and riparian habitat restoration statewide.

### **Chapter 81 Section 37 Laws 2016**

SECTION 37. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE HABITAT MANAGEMENT FUND.--Five hundred thousand dollars (\$500,000) is appropriated from the habitat management fund to the department of game and fish for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for fisheries renovation and wildlife and riparian habitat restoration statewide.

### **Chapter 81 Section 38 Laws 2016**

SECTION 38. DEPARTMENT OF GAME AND FISH PROJECT--  
APPROPRIATION FROM THE TRAIL SAFETY FUND.--Six hundred thousand dollars (\$600,000) is appropriated from the trail safety fund to the department of game and fish for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to construct off-highway vehicle recreation parks statewide.

### **Chapter 81 Section 39 Laws 2016**

SECTION 39. MINERS' COLFAX MEDICAL CENTER PROJECTS--  
APPROPRIATIONS FROM THE MINERS' TRUST FUND.--The following amounts are appropriated from the miners' trust fund to the miners' Colfax medical center for

expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for the following purposes:

1. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip, upgrade and expand the Alzheimer's unit courtyard at the miners' Colfax medical center long-term care facility in Colfax county;

2. seven hundred fifty thousand dollars (\$750,000) to purchase, install and equip a cardiac monitoring system at the miners' Colfax medical center in Colfax county; and

3. one million dollars (\$1,000,000) to plan, design, construct, renovate, equip and furnish mechanical and electrical system upgrades and improvements at the miners' Colfax medical center long-term care facility in Colfax county.

## **Chapter 81 Section 40 Laws 2016**

SECTION 40. 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 by the public school capital outlay council, to the public education department for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for the following purposes:

1. five million dollars (\$5,000,000) to plan, design, renovate and construct public school pre-kindergarten classrooms statewide; and

2. seven million dollars (\$7,000,000) to purchase and equip school buses statewide.

## **Chapter 81 Section 41 Laws 2016**

SECTION 41. STATE LAND OFFICE PROJECT--APPROPRIATION FROM THE STATE LANDS MAINTENANCE FUND.--One hundred fifty thousand dollars (\$150,000) is appropriated from the state lands maintenance fund to the state land office for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to plan, design, purchase and install space saver storage systems at the state land office in Santa Fe in Santa Fe county.

## **Chapter 81 Section 42 Laws 2016**

SECTION 42. DEPARTMENT OF TRANSPORTATION PROJECTS-- APPROPRIATIONS FROM THE STATE ROAD FUND.--The following amounts are appropriated from the state road fund to the department of transportation for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for the following purposes:

1. four hundred fifty thousand dollars (\$450,000) to construct, equip and furnish a salt dome for the district 3 south urban patrol yard in Bernalillo county;

2. one million five hundred thousand dollars (\$1,500,000) to construct, equip and furnish a patrol building at the Gallina maintenance patrol yard in district 5 in Rio Arriba county;

3. two hundred fifty-five thousand dollars (\$255,000) to plan, design, construct, renovate, equip and furnish restrooms at the general office complex to comply with the Americans with Disabilities Act of 1990 in Santa Fe in Santa Fe county;

4. two hundred ninety-one thousand dollars (\$291,000) for electrical upgrades in the materials laboratory at the general office complex in Santa Fe in Santa Fe county; and

5. two million four hundred thousand dollars (\$2,400,000) to plan, design, construct and furnish district 2 patrol facilities in Capitan, Carrizozo, Hondo and Fort Sumner in Lincoln and De Baca counties.

## **Chapter 81 Section 43 Laws 2016**

SECTION 43. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--APPROPRIATION FROM THE WATER PROJECT FUND.-  
-Notwithstanding the provisions of the Water Project Finance Act to the contrary, two million five hundred thousand dollars (\$2,500,000) is appropriated from the water project fund to the energy, minerals and natural resources department for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to plan, design and construct watershed restoration improvements, including forest thinning, statewide.

## **Chapter 81 Section 44 Laws 2016**

SECTION 44. DEPARTMENT OF ENVIRONMENT PROJECT--  
APPROPRIATION FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, one million five hundred thousand dollars (\$1,500,000) is appropriated from the water project fund to the department of environment for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to plan, design and construct projects to improve surface water quality and river habitat statewide.

## **Chapter 81 Section 45 Laws 2016**

SECTION 45. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT PROJECT--APPROPRIATION FROM THE WATER PROJECT FUND.-  
-Notwithstanding the provisions of the Water Project Finance Act to the contrary, seven hundred fifty thousand dollars (\$750,000) is appropriated from the water project fund to

the homeland security and emergency management department for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, for natural hazard mitigation community projects statewide and to match federal emergency management agency funds.

### **Chapter 81 Section 46 Laws 2016**

SECTION 46. OFFICE OF THE STATE ENGINEER PROJECT-- APPROPRIATION FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, two million dollars (\$2,000,000) is appropriated from the water project fund to the office of the state engineer for expenditure in fiscal years 2016 through 2020, unless otherwise provided in Section 2 of this act, to plan, design and construct an engineered levee in the San Acacia reach in Socorro county.

### **Chapter 81 Section 47 Laws 2016**

SECTION 47. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in this act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

### **Chapter 81 Section 48 Laws 2016**

SECTION 48. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in this act include one percent for the art in public places fund.

### **Chapter 81 Section 49 Laws 2016**

SECTION 49. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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HWMC/House Bill 219, w/ec, partial veto

Approved March 9, 2016

## **LAWS 2016, CHAPTER 82**

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO MAKE CAPITAL EXPENDITURES FOR SENIOR CITIZEN FACILITY IMPROVEMENTS AND ACQUISITIONS, FOR LIBRARY ACQUISITIONS, FOR CAPITAL IMPROVEMENTS AND ACQUISITIONS AT INSTITUTIONS OF HIGHER EDUCATION, STATE SPECIAL SCHOOLS AND TRIBAL SCHOOLS AND FOR CAPITAL IMPROVEMENTS AND ACQUISITIONS FOR PUBLIC SAFETY; PROVIDING FOR A PROPERTY TAX LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE REGISTERED VOTERS AT THE 2016 GENERAL ELECTION OF THE STATE; DECLARING AN EMERGENCY.

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

### **Chapter 82 Section 1 Laws 2016**

SECTION 1. SHORT TITLE.--This act may be cited as the "2016 Capital Projects General Obligation Bond Act".

### **Chapter 82 Section 2 Laws 2016**

SECTION 2. PURPOSE.--For the purpose of providing funds for capital expenditures as authorized in the 2016 Capital Projects General Obligation Bond Act, general obligation indebtedness of the state is authorized for the purposes and in the amounts set forth in Section 10 of that act.

### **Chapter 82 Section 3 Laws 2016**

SECTION 3. BOND TERMS.--

A. The state board of finance, except as limited by the 2016 Capital Projects General Obligation Bond Act, shall determine the terms, covenants and conditions of bonds issued pursuant to that act, including but not limited to:

(1) date or dates of issue, denominations and maturities;

(2) principal amounts;

(3) rate or rates of interest; and

(4) provisions for redemption, including premiums, registration and refundability, whether the bonds are issued in one or more series and other covenants relating to the bonds and the issuance thereof.

B. The bonds shall be in such form as the state board of finance determines with an appropriate series designation and shall bear interest payable as set forth in the resolution of the state board of finance.

C. Payment of the principal of the bonds shall begin not more than two years after the date of their issuance, and the bonds shall mature not later than ten years after the date of their issuance. Both principal and interest shall be payable in lawful money of the United States at the office of the paying agent within or without the state as the state board of finance may direct.

D. The bonds shall be executed with the manual or facsimile signature of the governor or the state treasurer, and the seal or a facsimile of the seal of the state shall be placed on each bond, except for any series of bonds issued in book entry or similar form without the delivery of physical securities.

E. The bonds shall be issued in accordance with the provisions of the 2016 Capital Projects General Obligation Bond Act, the Supplemental Public Securities Act and the Uniform Facsimile Signature of Public Officials Act and may be issued in accordance with the Public Securities Short-Term Interest Rate Act.

F. The full faith and credit of the state is pledged for the prompt payment when due of the principal of and interest on all bonds issued and sold pursuant to the 2016 Capital Projects General Obligation Bond Act.

## **Chapter 82 Section 4 Laws 2016**

SECTION 4. EXPENDITURES.--The proceeds from the sale of the bonds shall be expended solely for providing money to be distributed for the purposes and in amounts not to exceed the amounts set forth in Section 10 of the 2016 Capital Projects General Obligation Bond Act and to pay expenses incurred under Section 6 of that act. Any proceeds from the sale of the bonds that are not required for the purposes set forth in Sections 6 and 10 of that act shall be used for the purpose of paying the principal of and interest on the bonds.

## **Chapter 82 Section 5 Laws 2016**

SECTION 5. SALE.--The bonds authorized under the 2016 Capital Projects General Obligation Bond Act shall be sold by the state board of finance at such time and in such manner and amounts as the board may elect. The bonds may be sold at private sale or at public sale, in either case at not less than par plus accrued interest to the date of delivery. If sold at public sale, the state board of finance shall publish a notice of the time and place of sale in a newspaper of general circulation in the state and may also publish the notice in a recognized financial journal outside the state. The required publications shall be made once each week for two consecutive weeks prior to the date fixed for the sale, the last publication thereof to be at least five days prior to the date of the sale. The notice shall specify the amount, denomination, maturity and description of the bonds to be offered for sale and the place, date and hour at which the sealed bids shall be received. At the time and place specified in the notice, the state board of finance shall open the bids in public and shall award the bonds to the bidder or bidders offering the best price for the bonds. The state board of finance may reject any

or all bids and readvertise and may waive any irregularity in a bid. All bids, except that of the state, shall be accompanied by a deposit of two percent of the principal amount of the bonds in a form acceptable to the state board of finance. The deposit of an unsuccessful bidder shall be returned upon rejection of the bid. The state board of finance may also sell the bonds or any part of the bonds to the state treasurer or state investment officer. The state treasurer or state investment officer is authorized to purchase any of the bonds for investment. The bonds are legal investments for any person or board charged with the investment of any public funds and may be accepted as security for any deposit of public money.

## **Chapter 82 Section 6 Laws 2016**

SECTION 6. EXPENSES.--The expenses incurred by the state board of finance in or relating to the preparation and sale of the bonds shall be paid out of the proceeds from the sale of the bonds, and all rebate, penalty, interest and other obligations of the state relating to the bonds and bond proceeds under the Internal Revenue Code of 1986, as amended, shall be paid from earnings on bond proceeds or other money of the state, legally available for such payments.

## **Chapter 82 Section 7 Laws 2016**

SECTION 7. PROPERTY TAX LEVY.--To provide for the payment of the principal of and interest on the bonds issued and sold pursuant to the provisions of the 2016 Capital Projects General Obligation Bond Act, there shall be and there is hereby imposed and levied during each year in which any of the bonds are outstanding an ad valorem tax on all property in the state subject to property taxation for state purposes sufficient to pay the interest as it becomes due on the bonds, together with an amount sufficient to provide a sinking fund to pay the principal of the bonds as it becomes due, and, if permitted by law, ad valorem taxes may be collected to pay administrative costs incident to the collection of such taxes. The taxes shall be imposed, levied, assessed and collected at the times and in the manner that other property taxes for state purposes are imposed, levied, assessed and collected. It is the duty of all tax officials and authorities to cause these taxes to be imposed, levied, assessed and collected.

## **Chapter 82 Section 8 Laws 2016**

SECTION 8. TREASURER--DUTIES.--The state treasurer shall keep separate accounts of all money collected pursuant to the taxes imposed and levied pursuant to the provisions of the 2016 Capital Projects General Obligation Bond Act and shall use this money only for the purposes of paying the principal of and interest on the bonds as they become due and any expenses relating thereto.

## **Chapter 82 Section 9 Laws 2016**

SECTION 9. IRREPEALABLE CONTRACT--AUTHORITY FOR ISSUANCE.--An owner of bonds issued pursuant to the provisions of the 2016 Capital Projects General

Obligation Bond Act may, either at law or in equity, by suit, action or mandamus, enforce and compel the performance of the duties required by that act of any officer or entity mentioned in that act. The provisions of that act constitute an irrevocable contract with the owners of any of the bonds issued pursuant to that act for the faithful performance of which the full faith and credit of the state is pledged. Without reference to any other act of the legislature, the 2016 Capital Projects General Obligation Bond Act is full authority for the issuance and sale of the bonds authorized in that act, and such bonds shall have all the qualities of investment securities under the Uniform Commercial Code, shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale of the bonds and shall be incontestable in the hands of bona fide purchasers or holders thereof for value. All bonds issued under the provisions of that act, and the interest thereon, are exempt from taxation by the state and any subdivision or public body thereof.

## **Chapter 82 Section 10 Laws 2016**

SECTION 10. PROJECTS.--The proceeds from the sale of bonds issued under the provisions of the 2016 Capital Projects General Obligation Bond Act shall be distributed as follows for the purposes and in the amounts specified:

A. for senior citizen facility improvement, construction and equipment acquisition projects, to the aging and long-term services department:

(1) one hundred ninety thousand dollars (\$190,000) to purchase and equip vehicles, including meal delivery vehicles, for the Albuquerque department of senior affairs kitchen facility in Albuquerque in Bernalillo county;

(2) three hundred fifty-one thousand two hundred dollars (\$351,200) for improvements to the facility to address code compliance issues at Los Volcanes senior center in Albuquerque in Bernalillo county;

(3) forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Los Volcanes senior center in Albuquerque in Bernalillo county;

(4) thirty-five thousand dollars (\$35,000) to purchase and install meals equipment for the North Domingo Baca senior center in Albuquerque in Bernalillo county;

(5) nine hundred twelve thousand five hundred dollars (\$912,500) to plan, design, construct and equip an addition to the Palo Duro senior fitness center in Albuquerque in Bernalillo county;

(6) forty-seven thousand five hundred dollars (\$47,500) to purchase and equip vehicles for the Palo Duro senior fitness center in Albuquerque in Bernalillo county;



(7) fifty-one thousand dollars (\$51,000) for improvements to the facility to address code compliance issues at the Glenwood senior center in Glenwood in Catron county;

(8) twenty thousand dollars (\$20,000) for renovations to the Quemado senior center in Quemado in Catron county;

(9) ninety-one thousand dollars (\$91,000) to purchase and equip hot meal delivery vehicles for the Reserve senior center in Reserve in Catron county;

(10) forty-three thousand seven hundred dollars (\$43,700) to purchase and equip a vehicle for the Hagerman/Dexter senior center in Hagerman in Chaves county;

(11) forty-three thousand seven hundred dollars (\$43,700) to purchase and equip a vehicle for the Lake Arthur senior center in Lake Arthur in Chaves county;

(12) three hundred thousand two hundred dollars (\$300,200) to purchase and equip vehicles for the Roswell senior center in Roswell in Chaves county;

(13) sixty-seven thousand dollars (\$67,000) for improvements to the facility to address code compliance issues at the Eagle Nest senior center in Eagle Nest in Colfax county;

(14) two hundred fifty thousand dollars (\$250,000) to plan, design and construct a senior facility and meal site for the Clovis senior center in Clovis in Curry county;

(15) nineteen thousand one hundred dollars (\$19,100) to purchase and install meals equipment at the Clovis senior center in Clovis in Curry county;

(16) forty thousand dollars (\$40,000) to purchase and equip a vehicle for the Grady senior center in Grady in Curry county;

(17) six thousand dollars (\$6,000) to purchase and install meals equipment at the Melrose senior center in Melrose in Curry county;

(18) one hundred thirty-six thousand dollars (\$136,000) for improvements to the facility and parking lot at the Melrose senior center in Melrose in Curry county;

(19) fifty-one thousand dollars (\$51,000) to purchase and install meals equipment in the Gila senior center in Gila in Grant county;

(20) sixty-three thousand dollars (\$63,000) to purchase and install equipment, including a vent with blower, at the Hurley site kitchen in Hurley in Grant county;

(21) fifty-one thousand dollars (\$51,000) to purchase and install meals equipment in the Mimbres senior center in Mimbres in Grant county;

(22) sixty-eight thousand dollars (\$68,000) to purchase and install meals equipment at the Santa Clara senior center in Santa Clara in Grant county;

(23) one hundred eight thousand dollars (\$108,000) to purchase and install meals equipment at the Silver City senior center in Silver City in Grant county;

(24) thirty-seven thousand two hundred dollars (\$37,200) to purchase and install a walk-in cooler at the Ena Mitchell senior center in Lordsburg in Hidalgo county;

(25) forty-seven thousand four hundred dollars (\$47,400) to purchase and equip vehicles for the Ena Mitchell senior center in Lordsburg in Hidalgo county;

(26) one hundred ninety thousand dollars (\$190,000) for renovations and improvements to the parking lot at the Eunice senior center in Eunice in Lea county;

(27) thirty-five thousand dollars (\$35,000) to purchase and equip vehicles for the Lovington Bill McKibben senior center in Lovington in Lea county;

(28) thirty thousand one hundred fifty dollars (\$30,150) to purchase and equip a vehicle for the Tatum senior center in Tatum in Lea county;

(29) twelve thousand eight hundred dollars (\$12,800) for renovations to the Ruidoso community center in Ruidoso in Lincoln county;

(30) ninety thousand six hundred dollars (\$90,600) to purchase and install meals equipment at the White Rock senior center kitchen in White Rock in Los Alamos county;

(31) fifty-four thousand dollars (\$54,000) to purchase and install a generator at the Deming senior center in Deming in Luna county;

(32) one hundred twenty-one thousand seven hundred dollars (\$121,700) for renovations to the Deming senior center in Deming in Luna county;

(33) four hundred fifty thousand dollars (\$450,000) to plan, design, construct and equip an expansion to the Baahaali senior center in the Baahaali chapter of the Navajo Nation in McKinley county;

(34) four thousand eight hundred dollars (\$4,800) for improvements to the facility to address code compliance issues at the Baca senior center in the Baca chapter of the Navajo Nation in McKinley county;

(35) forty-six thousand three hundred dollars (\$46,300) to purchase and equip a vehicle for the Baca senior center in the Baca chapter of the Navajo Nation in McKinley county;

(36) eighteen thousand dollars (\$18,000) to purchase and install meals equipment at the McKinley senior center in Thoreau in McKinley county;

(37) fifty-six thousand four hundred dollars (\$56,400) to purchase and equip a vehicle for the Pueblo Pintado senior center at the Pueblo Pintado chapter of the Navajo Nation in McKinley county;

(38) five hundred fifty thousand dollars (\$550,000) to plan, design and construct an addition to and to renovate the Mora senior center in Mora in Mora county;

(39) ninety-seven thousand seven hundred dollars (\$97,700) to purchase and equip vehicles, including a meal delivery vehicle, for the Mora senior center in Mora in Mora county;

(40) forty-three thousand six hundred dollars (\$43,600) for improvements to the facility to address code compliance issues at the Alamo senior center in Alamogordo in Otero county;

(41) sixty-eight thousand two hundred fifty dollars (\$68,250) to purchase and equip vehicles for the Alamo senior center in Alamogordo in Otero county;

(42) fifteen thousand dollars (\$15,000) for renovations to the Cloudcroft senior center in Cloudcroft in Otero county;

(43) five thousand eight hundred dollars (\$5,800) to purchase and install meals equipment for the Mescalero Apache elderly program in Mescalero in Otero county;

(44) seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Mescalero Apache elderly program in Mescalero in Otero county;

(45) twenty-nine thousand five hundred dollars (\$29,500) to purchase and equip a vehicle for the Tularosa senior center in Tularosa in Otero county;

(46) twenty-seven thousand four hundred dollars (\$27,400) to purchase and equip a vehicle for the Logan senior citizens center in Logan in Quay county;

(47) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Alcalde senior center in Alcalde in Rio Arriba county;

(48) eight thousand three hundred dollars (\$8,300) to purchase and install meals equipment at the Chama senior center in Chama in Rio Arriba county;

(49) four thousand one hundred dollars (\$4,100) for renovations to the Chama senior center in Chama in Rio Arriba county;

(50) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Chimayo senior center in Chimayo in Rio Arriba county;

(51) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Coyote senior center in Coyote in Rio Arriba county;

(52) seventy thousand two hundred dollars (\$70,200) to purchase and equip hot meal delivery vehicles for the El Rito senior center in El Rito in Rio Arriba county;

(53) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Espanola senior center in Espanola in Rio Arriba county;

(54) one hundred thirteen thousand eight hundred dollars (\$113,800) for improvements to the facility to address code compliance issues at the Santa Clara adult daycare center at the Pueblo of Santa Clara in Rio Arriba county;

(55) fifty-seven thousand five hundred dollars (\$57,500) to purchase and equip vehicles for the Santa Clara adult daycare center at the Pueblo of Santa Clara in Rio Arriba county;

(56) one hundred twenty-eight thousand seven hundred dollars (\$128,700) to purchase and equip vehicles, including a meal delivery vehicle, for the Santa Clara senior citizens center in the Pueblo of Santa Clara in Rio Arriba county;

(57) two hundred thousand dollars (\$200,000) for renovations to the Tierra Amarilla senior center in Tierra Amarilla in Rio Arriba county;

(58) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Tierra Amarilla senior center in Tierra Amarilla in Rio Arriba county;

(59) thirty-five thousand one hundred dollars (\$35,100) to purchase and equip a hot meal delivery vehicle for the Truchas senior center in Truchas in Rio Arriba county;

(60) seven thousand six hundred dollars (\$7,600) to purchase and install meals equipment at the Aztec senior community center in Aztec in San Juan county;

(61) fifty-three thousand one hundred dollars (\$53,100) for renovations to the Aztec senior community center in Aztec in San Juan county;

(62) one hundred thirty-three thousand dollars (\$133,000) to purchase and equip vehicles, including meal delivery vehicles, for the Aztec senior community center in Aztec in San Juan county;

(63) fifty-five thousand seven hundred dollars (\$55,700) for improvements to the parking lot at the Blanco senior center in Blanco in San Juan county;

(64) forty thousand dollars (\$40,000) to purchase and equip a vehicle for the Blanco senior center in Blanco in San Juan county;

(65) fifty-five thousand dollars (\$55,000) to purchase and equip a vehicle for the Bloomfield senior citizens center in Bloomfield in San Juan county;

(66) four hundred eighty thousand dollars (\$480,000) to plan, design and construct a parking lot at the Bernalillo senior center in Bernalillo in Sandoval county;

(67) eighty-three thousand four hundred dollars (\$83,400) to purchase and equip vehicles, including meal delivery vehicles, for the Bernalillo senior center in Bernalillo in Sandoval county;

(68) twenty thousand five hundred dollars (\$20,500) for renovations to the Corrales senior center in Corrales in Sandoval county;

(69) one hundred one thousand six hundred fifty dollars (\$101,650) for improvement to the facility to address code compliance issues at the Cuba senior center in Cuba in Sandoval county;

(70) twenty-two thousand eight hundred dollars (\$22,800) to purchase and install meals equipment at the Cuba senior center in Cuba in Sandoval county;

(71) forty-three thousand dollars (\$43,000) to purchase and equip vehicles, including a meal delivery vehicle, for the Cuba senior center in Cuba in Sandoval county;

(72) fifty thousand two hundred fifty dollars (\$50,250) for improvements to the facility to address code compliance issues at the Jemez community center in Canon in Sandoval county;

(73) ten thousand six hundred dollars (\$10,600) to purchase and install meals equipment at the Jemez community center in Canon in Sandoval county;

(74) seventy-one thousand one hundred dollars (\$71,100) for improvements to the facility and parking lot at the Jemez community center in Canon in Sandoval county;

(75) three million four hundred thousand dollars (\$3,400,000) to plan, design, construct and equip phase 1 of a new senior center in Rio Rancho in Sandoval county;

(76) seventy-five thousand dollars (\$75,000) for improvements to the facility to address code compliance issues at the Meadowlark senior center in Rio Rancho in Sandoval county;

(77) nine thousand three hundred dollars (\$9,300) to purchase and install meals equipment at the Meadowlark senior center in Rio Rancho in Sandoval county;

(78) sixty-five thousand four hundred dollars (\$65,400) for renovations to the Meadowlark senior center in Rio Rancho in Sandoval county;

(79) seven thousand four hundred dollars (\$7,400) to purchase and install meals equipment at the Placitas community center in Placitas in Sandoval county;

(80) one hundred twenty-four thousand four hundred dollars (\$124,400) to purchase and equip hot meal delivery vehicles for the Rio Rancho meal site in Rio Rancho in Sandoval county;

(81) thirty-six thousand two hundred dollars (\$36,200) to purchase and equip a vehicle for the Sandia elderly program at the Pueblo of Sandia in Sandoval county;

(82) fifty-three thousand seven hundred dollars (\$53,700) to purchase and install meals equipment at the senior center in the Pueblo of Santa Ana in Sandoval county;

(83) sixty-eight thousand three hundred fifty dollars (\$68,350) to purchase and equip vehicles, including a meal delivery vehicle, for the senior center in the Pueblo of Santa Ana in Sandoval county;

(84) ninety-seven thousand dollars (\$97,000) to purchase and equip vehicles, including a meal delivery vehicle, for the Edgewood senior center in Edgewood in Santa Fe county;

(85) two hundred thirty-six thousand five hundred dollars (\$236,500) for improvements to the building and parking lot at the Mary Esther Gonzales senior center in Santa Fe in Santa Fe county;

(86) seventy thousand three hundred dollars (\$70,300) to plan, design, construct and equip phase 2 of the computer laboratory at the Mary Esther Gonzales senior center in Santa Fe in Santa Fe county;

(87) four hundred ninety-six thousand eight hundred dollars (\$496,800) to purchase and equip vehicles for the Mary Esther Gonzales senior center in Santa Fe in Santa Fe county;

(88) thirty-eight thousand dollars (\$38,000) for renovations to the Nambe Pueblo senior center in the Pueblo of Nambe in Santa Fe county;

(89) one hundred ninety-eight thousand five hundred dollars (\$198,500) for improvements to the facility to address code compliance issues at the Pasatiempo senior center in Santa Fe in Santa Fe county;

(90) one hundred ninety thousand dollars (\$190,000) to plan, design, construct and equip an expansion to the senior center in the Pueblo of Pojoaque in Santa Fe county;

(91) one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles, including a meal delivery vehicle, for the Santa Cruz senior center in Santa Cruz in Santa Fe county;

(92) one hundred ninety-eight thousand dollars (\$198,000) for improvements to the facility to address code compliance issues at the Villa Consuelo senior center in Santa Fe in Santa Fe county;

(93) eighty thousand nine hundred dollars (\$80,900) to purchase and install meals equipment at the Villa Consuelo senior center in Santa Fe in Santa Fe county;

(94) five thousand six hundred dollars (\$5,600) to purchase and install meals equipment at the Magdalena senior center in Magdalena in Socorro county;

(95) twenty-six thousand one hundred dollars (\$26,100) to purchase and install meals equipment at the Socorro senior center in Socorro in Socorro county;

(96) fifty-three thousand six hundred dollars (\$53,600) for renovations to the Socorro senior center in Socorro in Socorro county;

(97) one hundred one thousand three hundred dollars (\$101,300) to purchase and equip vehicles for the Socorro senior center in Socorro in Socorro county;

(98) ten thousand dollars (\$10,000) to purchase and install meals equipment at the Veguita senior center in Las Nutrias in Socorro county;

(99) six thousand eight hundred dollars (\$6,800) for renovations to the Veguita senior center in Las Nutrias in Socorro county;

(100) ninety-two thousand eight hundred fifty dollars (\$92,850) for improvements to the facility to address code compliance issues at the Picuris senior center in the Pueblo of Picuris in Taos county;

(101) one million two hundred seventy-five thousand dollars (\$1,275,000) to plan, design, construct and equip a new senior center in Taos in Taos county;

(102) one hundred twenty-nine thousand one hundred fifty dollars (\$129,150) to purchase and equip vehicles, including a meal delivery vehicle, for Taos county senior centers in Taos in Taos county;

(103) seven thousand eight hundred dollars (\$7,800) to purchase and install meals equipment at the Estancia senior center in Estancia in Torrance county;

(104) eighty thousand one hundred dollars (\$80,100) to purchase and equip vehicles for the Estancia senior center in Estancia in Torrance county;

(105) seven thousand eight hundred dollars (\$7,800) to purchase and install meals equipment for the Mountainair senior center in Mountainair in Torrance county;

(106) one hundred thousand dollars (\$100,000) for improvements to the facility to address code compliance issues at the Clayton senior center in Clayton in Union county;



(107) one hundred ninety-eight thousand one hundred fifty dollars (\$198,150) to purchase and install meals equipment at the Bosque Farms senior meal site in Bosque Farms in Valencia county;

(108) one hundred forty-three thousand four hundred dollars (\$143,400) to plan, design, construct and equip an addition to the Bosque Farms senior meal site in Bosque Farms in Valencia county; and

(109) two hundred ninety thousand dollars (\$290,000) for expansion and renovations at the Fred Luna senior center in Los Lunas in Valencia county;

B. for library acquisitions at public libraries, public school libraries, academic libraries and tribal libraries statewide:

(1) to the cultural affairs department:

(a) three million dollars (\$3,000,000) for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, and for the purchase and installation of broadband internet equipment and infrastructure at nontribal public libraries statewide; and

(b) seven hundred fifty thousand dollars (\$750,000) for equipment, library furniture, fixtures and supplemental library resource acquisitions, including print, non-print and electronic resources, and for the purchase and installation of broadband internet equipment and infrastructure at tribal libraries statewide;

(2) to the higher education department, three million two hundred fifty thousand dollars (\$3,250,000) for supplemental library resource acquisitions, including books, equipment, electronic resources and collaborative library resources and information technology projects, for academic libraries statewide; and

(3) to the public education department, three million dollars (\$3,000,000) for supplemental library resource acquisitions, including print, non-print and electronic resources, at public school libraries statewide;

C. for capital improvements at institutions of higher education, special schools and tribal schools statewide:

(1) to the board of regents of eastern New Mexico university:

(a) one million dollars (\$1,000,000) to plan, design, renovate, equip and furnish classrooms and campuswide infrastructure improvements and replacement at the Roswell branch campus of eastern New Mexico university in Chaves county;

(b) seven hundred thousand dollars (\$700,000) to plan, design, construct, renovate, furnish and equip classrooms and student service spaces at the Ruidoso branch community college of eastern New Mexico university in Lincoln county; and

(c) eleven million dollars (\$11,000,000) to plan, design, construct, renovate, furnish and equip the Golden library and student success center at eastern New Mexico university in Portales in Roosevelt county;

(2) to the higher education department:

(a) thirteen million five hundred thousand dollars (\$13,500,000) to plan, design, construct, furnish and equip renovations at Max Salazar hall at the main campus of central New Mexico community college in Albuquerque in Bernalillo county;

(b) two million dollars (\$2,000,000) to plan, design, construct, furnish and equip library building 104 and general education building 103 at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;

(c) two million dollars (\$2,000,000) to plan, design, replace, purchase and install heating, ventilation and air conditioning systems, including infrastructure, air handlers, controls and boilers campuswide, at Clovis community college in Clovis in Curry county;

(d) four million dollars (\$4,000,000) to plan, design, construct, furnish and equip the allied health building at New Mexico junior college in Hobbs in Lea county;

(e) eight hundred fifty thousand dollars (\$850,000) to plan, design, demolish, construct, improve, furnish and equip the learning innovation center, including site infrastructure and the removal of existing modular buildings, at the Crownpoint campus of Navajo technical university in McKinley county;

(f) two million dollars (\$2,000,000) for site improvements and to plan, design, construct, renovate, furnish and equip campus improvements, including paving [~~and signage~~], at Mesalands community college in Tucumcari in Quay county;  
*LINE-ITEM VETO*

(g) two million dollars (\$2,000,000) to plan, design, construct and improve infrastructure campuswide, including restroom renovations for code compliance, at San Juan college in San Juan county;

(h) two million dollars (\$2,000,000) to plan, design, construct, renovate, furnish and equip the education media center, including the

auditorium, classrooms and performing arts education space, at Luna community college in Las Vegas in San Miguel county;

(i) two million dollars (\$2,000,000) to plan, design, construct, furnish and equip a new multipurpose fitness and performing arts center at the institute of American Indian arts in Santa Fe county;

(j) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip infrastructure upgrades and roofing campuswide at Santa Fe community college in Santa Fe in Santa Fe county; and

(k) five hundred thousand dollars (\$500,000) to plan, design, renovate and construct roads and sidewalks, including site improvements for code compliance, at Dine college in the Shiprock chapter of the Navajo Nation in San Juan county;

~~[(3) to the Indian affairs department, nine hundred thousand dollars (\$900,000) to plan, design and construct an access lane and other road improvements, including ingress and egress, curbs and gutters and storm drainage, at the Santa Fe Indian school in Santa Fe in Santa Fe county;] *LINE-ITEM VETO*~~

(4) to the board of regents of the New Mexico school for the blind and visually impaired, one million two hundred thousand dollars (\$1,200,000) to plan, design, construct, renovate, furnish and equip Garrett dormitory, including the purchase and installation of special needs playground equipment, at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county;

(5) to the board of regents of New Mexico highlands university, four million five hundred thousand dollars (\$4,500,000) for site improvements and to plan, design, construct, renovate, furnish and equip the Rodgers administration building at New Mexico highlands university in Las Vegas in San Miguel county;

(6) to the board of regents of the New Mexico institute of mining and technology:

(a) five million five hundred thousand dollars (\$5,500,000) to plan, design, construct, renovate, furnish and equip Jones hall at the New Mexico institute of mining and technology in Socorro in Socorro county; and

~~[(b) two million dollars (\$2,000,000) to plan, design, construct, furnish, equip and install a telescope and interferometer infrastructure at the astrophysics facility at the Magdalena ridge observatory in Socorro county;] *LINE-ITEM VETO*~~

(7) to the board of regents of the New Mexico military institute, four million eight hundred fifty-six thousand two hundred dollars (\$4,856,200) to plan,

design, construct, renovate, furnish and equip Cahoon hall athletic facility at the New Mexico military institute in Roswell in Chaves county;

(8) to the board of regents of the New Mexico school for the deaf, two million dollars (\$2,000,000) to plan, design, construct, renovate, furnish and equip Delgado hall, including demolition, at the New Mexico school for the deaf in Santa Fe in Santa Fe county;

(9) to the board of regents of New Mexico state university:

(a) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip improvements to campus roads and parking lots and site improvements campuswide at the Grants branch campus of New Mexico state university in Cibola county;

(b) twenty-two million five hundred thousand dollars (\$22,500,000) to plan, design, demolish, construct, renovate, expand, furnish and equip Dan W. Williams hall and Dan W. Williams annex at New Mexico state university in Las Cruces in Dona Ana county;

(c) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip classrooms, laboratories and other infrastructure, including roof repair and replacement, at the central campus of Dona Ana branch community college of New Mexico state university in Dona Ana county;

(d) one million dollars (\$1,000,000) to plan, design, construct, renovate and equip improvements to the fire alarm and fire suppression system in the main building at the Carlsbad branch campus of New Mexico state university in Eddy county; and

(e) one million dollars (\$1,000,000) to plan, design, construct, renovate and replace roofs campuswide at the Alamogordo branch campus of New Mexico state university in Otero county;

(10) to the board of regents of northern New Mexico state school, one million dollars (\$1,000,000) for site improvements and to plan, design, construct, renovate and upgrade heating, cooling and electrical systems and infrastructure at the El Rito and Espanola campuses of northern New Mexico state school in Rio Arriba county;

(11) to the board of regents of the university of New Mexico:

(a) twenty-seven million dollars (\$27,000,000) to plan, design, construct, furnish and equip a new physics and astronomy interdisciplinary science building, including demolition, at the university of New Mexico in Albuquerque in Bernalillo county;

(b) five hundred thousand dollars (\$500,000) to plan, design, construct, renovate, furnish and equip upgrades at existing facilities, including code compliance, at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;

(c) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, furnish and equip a new physical plant and storage facility at the Gallup branch campus of the university of New Mexico in McKinley county;

~~[(d) eight million dollars (\$8,000,000) to plan, design, construct, renovate, furnish and equip a health science center west education building, including classrooms, laboratories and faculty space, at the university of New Mexico health sciences campus in Rio Rancho in Sandoval county;] *LINE-ITEM VETO*~~

(e) four million dollars (\$4,000,000) for site improvements and to plan, design, construct, expand, furnish and equip a career technical center at the Taos branch campus of the university of New Mexico in Taos county; and

(f) one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and upgrade electrical, mechanical and information technology systems and infrastructure campuswide at the Valencia branch campus of the university of New Mexico in Los Lunas in Valencia county; and

(12) to the board of regents of western New Mexico university, five million dollars (\$5,000,000) to plan, design, demolish, construct, improve, landscape and equip Harlan hall and for infrastructure upgrades campuswide at western New Mexico university in Silver City in Grant county; and

D. for capital improvements and acquisitions for public safety:

(1) to the capital program fund, seven million dollars (\$7,000,000) to plan, design and construct a new state police crime laboratory and evidence and records facility, including expansion of the existing crime laboratory, at the department of public safety headquarters in Santa Fe in Santa Fe county;

(2) to the department of information technology, five million dollars (\$5,000,000) to plan, design, purchase, install and implement infrastructure to stabilize and modernize public safety communications statewide; and

(3) to the department of military affairs:

(a) four million dollars (\$4,000,000) to plan, design and construct the Las Cruces national guard readiness center in Dona Ana county; and

(b) two million dollars (\$2,000,000) for improvements, repairs and demolition and to purchase and install systems to improve energy efficiency and for staging areas at facilities statewide.

## **Chapter 82 Section 11 Laws 2016**

### **SECTION 11. ELECTION.--**

A. Bonds issued pursuant to the 2016 Capital Projects General Obligation Bond Act shall be submitted to the registered voters of the state at the general election to be held in November 2016, and, if they receive a majority of all the votes cast thereon at such election, shall take effect upon certification of the state canvassing board announcing the results of the election. No bonds shall be issued or sold under that act until the registered voters of this state have voted upon and approved the bonds and property tax as provided in this section. Any bonds issued under that act shall be issued within thirty months from the date of such election.

B. The ballots used at the 2016 general election shall contain substantially the following language:

(1) "The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of senior citizen facility improvement, construction and equipment acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed fifteen million four hundred forty thousand dollars (\$15,440,000) to make capital expenditures for certain senior citizen facility improvement, construction and equipment acquisition projects and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_";

(2) "The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of library acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed ten million one hundred sixty-seven thousand dollars (\$10,167,000) to make capital expenditures for academic, public school, tribal and public library resource acquisitions and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_";

(3) "The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of higher education, special schools and tribal schools capital improvement and acquisition bonds. Shall the state be authorized to issue

general obligation bonds in an amount not to exceed one hundred forty-two million three hundred fifty-six thousand dollars (\$142,356,000) to make capital expenditures for certain higher education, special schools and tribal schools capital improvements and acquisitions and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_"; and

(4) "The 2016 Capital Projects General Obligation Bond Act authorizes the issuance and sale of public safety capital improvement and acquisition bonds. Shall the state be authorized to issue general obligation bonds in an amount not to exceed eighteen million one hundred ninety-six thousand dollars (\$18,196,000) to make capital expenditures for capital improvements and acquisitions for state police, public safety communications and national guard facilities statewide and provide for a general property tax imposition and levy for the payment of principal of, interest on and expenses incurred in connection with the issuance of the bonds and the collection of the tax as permitted by law?

For \_\_\_\_\_ Against \_\_\_\_\_".

C. Each question set forth in this section includes a specific work or object to be financed by the bonds. If any such question is not approved by a majority vote of the electorate at the state's 2016 general election, the issuance of bonds for the work or object specified by the question shall be excluded from and shall not be part of the 2016 Capital Projects General Obligation Bond Act. The failure of a question to be approved by the electorate at the 2016 general election shall not affect those questions that are approved at the election.

D. The secretary of state shall include the submission of the capital projects general obligation bonds to the people at the 2016 general election, and it shall be included in the general election proclamation of each of the county clerks. The secretary of state shall cause the 2016 Capital Projects General Obligation Bond Act to be published in full in at least one newspaper in each county of the state if one be published therein, once each week, for four successive weeks next preceding the general election as required by the constitution of New Mexico.

## **Chapter 82 Section 12 Laws 2016**

SECTION 12. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in the 2016 Capital Projects General Obligation Bond Act include money for the art in public places fund.

## **Chapter 82 Section 13 Laws 2016**

SECTION 13. PROJECT SCOPE--EXPENDITURES--REVERSION.--

A. If an appropriation for a project authorized in the 2016 Capital Projects General Obligation Bond Act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

B. The state agencies and state institutions to which money has been appropriated in the 2016 Capital Projects General Obligation Bond Act shall be responsible for monitoring the projects funded in that act to ensure compliance with the constitution and laws of New Mexico and shall cause to be reverted any unexpended or unencumbered balance remaining at the earlier of the third full fiscal year after issuance of the bonds or the termination or completion of the specific project. Reverted funds shall be deposited in the debt service fund established by the state treasurer for the purpose of paying the principal of and interest on the state's general obligation bonds.

## **Chapter 82 Section 14 Laws 2016**

SECTION 14. SEVERABILITY.--If any part or application of the 2016 Capital Projects General Obligation Bond Act is held invalid, the remainder or its application to other situations or persons shall not be affected.

## **Chapter 82 Section 15 Laws 2016**

SECTION 15. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SFC/Senate Bill 122, aa, w/ec, partial veto

Approved March 9, 2016

# **LAWS 2016, CHAPTER 83**

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, CHANGING AGENCIES, EXTENDING EXPENDITURE PERIODS AND ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES OF APPROPRIATIONS MADE BY THE LEGISLATURE IN PRIOR YEARS; REMOVING RESTRICTIONS ON CERTAIN APPROPRIATIONS; DECLARING AN EMERGENCY.

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



## **Chapter 83 Section 1 Laws 2016**

### **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 83 Section 2 Laws 2016**

### **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 83 Section 3 Laws 2016**

~~[SECTION 3. CYPRESS ROAD SOUTHWEST IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 2 of Section 18 of Chapter 64 of Laws 2012 to plan, design and construct road improvements, including drainage, curbing and asphalt overlay, to Cypress road southwest in the Los Ranchos de Atrisco area south of Central avenue southwest in Bernalillo county is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

### **Chapter 83 Section 4 Laws 2016**

SECTION 4. BERNALILLO COUNTY FIRE DEPARTMENT TECHNICAL RESCUE RESPONSE UNIT--CHANGE TO BERNALILLO COUNTY FIRE DEPARTMENT FIRE ENGINE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 8 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase and equip a technical rescue response unit for the fire department in Bernalillo county shall not be expended for the original purpose but is changed to purchase and equip a fire engine for the county fire department in Bernalillo county.

### **Chapter 83 Section 5 Laws 2016**

SECTION 5. BERNALILLO COUNTY HEAD START BUSES--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 3 of Section 31 of Chapter 226 of Laws 2013 to purchase and equip head start program buses in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 6 Laws 2016**

SECTION 6. BERNALILLO COUNTY TRANSITIONAL HOME FOR LESBIAN AND GAY HOMELESS YOUTH--CHANGE TO VEHICLES, EQUIPMENT AND IMPROVEMENTS TO HOME--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 16 of Section 22 of Chapter 66 of Laws 2014 to purchase equipment and a van for a transitional home for lesbian and gay homeless youth in Bernalillo county shall not be expended for the original purpose but is changed to purchase vehicles and equipment and to plan, design, construct and equip improvements to a house to be used as a transitional home for lesbian and gay homeless youth in Bernalillo county. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 7 Laws 2016**

SECTION 7. SOUTH VALLEY COMMUNITY ACEQUIA IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project originally authorized in Subparagraph (l) of Paragraph (10) of Subsection A of Section 18 of Chapter 105 of Laws 2010 and reauthorized to the local government division in Laws 2014, Chapter 64, Section 4 for the middle Rio Grande conservancy district to plan, design and construct improvements to community ditches and acequias in the south valley of Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 8 Laws 2016**

SECTION 8. NEW MEXICO STATE FAIR AFRICAN AMERICAN PERFORMING ARTS CENTER EXHIBIT HALL EQUIPMENT AND INFRASTRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project in Subsection 1 of Section 24 of Chapter 226 of Laws 2013 for exhibits, displays, storage, exhibitions and equipment at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 9 Laws 2016**

SECTION 9. ALBUQUERQUE ATRISCO COMMUNITY ADULT DAYCARE AND RESPITE FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project originally authorized in Subparagraph (a) of Paragraph (8) of Subsection A of Section 18 of Chapter 105 of Laws 2010 and reauthorized to the aging and long-term services department in Laws 2014, Chapter 64, Section 9 to purchase land and a building and to plan, design, renovate, construct, furnish and equip an adult daycare and respite facility in the Atrisco community in Albuquerque in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 10 Laws 2016**

SECTION 10. ALBUQUERQUE FIRE DEPARTMENT LADDER TRUCK--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 37 of Section 22 of Chapter 66 of Laws 2014 to purchase and equip a ladder truck for the fire department in Albuquerque in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 11 Laws 2016**

SECTION 11. ANDERSON ABRUZZO ALBUQUERQUE INTERNATIONAL BALLOON MUSEUM HEATING, VENTILATION AND AIR CONDITIONING--CHANGE TO SCIENCE, TECHNOLOGY, ENGINEERING AND MATHEMATICS EXHIBITS AND SYSTEMS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 19 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct a heating, ventilation and air conditioning system for the collections at the Anderson Abruzzo Albuquerque international balloon museum in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and install science, technology, engineering and mathematics exhibits and collections management systems at that museum.

## **Chapter 83 Section 12 Laws 2016**

SECTION 12. ALBUQUERQUE KIMO THEATER BAND SHELL--CHANGE TO KIMO THEATER CARPETS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 42 of Section 22 of Chapter 66 of Laws 2014 to plan, design, purchase and install a retractable band shell in the Kimo theater in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, purchase and install carpet in that theater.

## **Chapter 83 Section 13 Laws 2016**

SECTION 13. ALBUQUERQUE THOMAS BELL COMMUNITY CENTER INFORMATION TECHNOLOGY AND RECREATION EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 56 of Section 22 of Chapter 66 of Laws 2014 to purchase and install recreation equipment and information technology, including related equipment, furniture and infrastructure, at the Thomas Bell community center in Albuquerque in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 14 Laws 2016**

SECTION 14. ALBUQUERQUE WHEELS MUSEUM VISITOR CENTER--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 68 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan and design a visitor center at the Wheels museum in Albuquerque in Bernalillo county may include construction, renovation and the purchase of equipment.

### **Chapter 83 Section 15 Laws 2016**

SECTION 15. BERNALILLO COUNTY DOMESTIC VIOLENCE SHELTERS KITCHEN EQUIPMENT--CHANGE TO BERNALILLO COUNTY DOMESTIC VIOLENCE PROGRAM KITCHEN EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 71 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase kitchen equipment for domestic violence shelters in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase kitchen equipment for a domestic violence program in Albuquerque in Bernalillo county.

### **Chapter 83 Section 16 Laws 2016**

SECTION 16. BERNALILLO COUNTY FOOD DISTRIBUTION FACILITY--CHANGE TO FURNISH AND EQUIP--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 72 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to acquire a building and to plan, design, construct, renovate, furnish and equip a direct food distribution center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to furnish and equip a direct food distribution center in Albuquerque in Bernalillo county.

### **Chapter 83 Section 17 Laws 2016**

SECTION 17. BERNALILLO COUNTY SOUTH VALLEY YOUTH CRISIS SHELTER MULTIPURPOSE ROOM--CHANGE TO YOUTH CRISIS CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 55 of Section 31 of Chapter 226 of Laws 2013 for a multipurpose room at a youth crisis shelter in the south valley area in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct and furnish improvements to a youth crisis center in the south valley area in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 18 Laws 2016**

SECTION 18. CIEN AGUAS INTERNATIONAL SCHOOL FACILITY CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project originally authorized in Subsection 7 of Section 8 of Chapter 64 of Laws 2012 and reauthorized in Laws 2014, Chapter 64, Section 10 to purchase a building, to plan, renovate and equip facilities and

classrooms and to purchase and install information technology, including related furniture, equipment and infrastructure, for Cien Aguas international school in Albuquerque is extended through fiscal year 2018.

### **Chapter 83 Section 19 Laws 2016**

SECTION 19. DEAF CULTURE MULTIPURPOSE CENTER AND APARTMENT COMPLEX--CHANGE TO DEAF CULTURE MULTIPURPOSE CENTER IMPROVEMENTS --CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.-  
-The unexpended balance of the appropriation to the department of transportation originally authorized in Subsection 26 of Section 24 of Chapter 92 of Laws 2008 and reauthorized to the commission for deaf and hard-of-hearing persons in Laws 2012, Chapter 63, Section 5 for a deaf culture multipurpose center and apartment complex for the deaf and deaf-blind in Albuquerque in Bernalillo county and for which the time of expenditure was extended in Laws 2014, Chapter 64, Section 12 shall not be expended for the original or reauthorized purpose but is appropriated to the local government division to plan, design, improve and construct renovations and to purchase furniture and equipment for a deaf culture multipurpose center in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 20 Laws 2016**

SECTION 20. LA PROMESA EARLY LEARNING CENTER CHARTER SCHOOL INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 108 of Section 13 of Chapter 66 of Laws 2014 to purchase and install information technology, including related equipment, furniture and infrastructure, at La Promesa early learning center charter school in Albuquerque in Bernalillo county is extended through fiscal year 2018.

### **Chapter 83 Section 21 Laws 2016**

SECTION 21. NATIONAL HISPANIC CULTURAL CENTER TORREON BUILDING AND LANDSCAPE--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department originally authorized in Subsection 4 of Section 7 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 19 and again in Laws 2014, Chapter 64, Section 15 to complete the Torreon building and surrounding landscaping at the national Hispanic cultural center in Albuquerque in Bernalillo county may include improvements to the Torreon building and the construction of a welcome center at the entrance to the cultural center. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 22 Laws 2016**

SECTION 22. AFRICAN AMERICAN PERFORMING ARTS CENTER EXHIBITS, DISPLAYS AND EQUIPMENT AND INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project originally authorized in Subsection 1 of Section 16 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 16 and again in Laws 2014, Chapter 64, Section 5 for exhibits, displays and equipment and for audiovisual and digital equipment and information technology, including related equipment, furniture and infrastructure, at the African American performing arts center in Albuquerque in Bernalillo county is extended through fiscal year 2018.

### **Chapter 83 Section 23 Laws 2016**

SECTION 23. ALICE FAYE HOPPES PAVILION STAGE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project originally authorized in Subsection 1 of Section 16 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 14 to design and construct a stage at the Alice Faye Hoppes pavilion at the New Mexico state fairgrounds in Albuquerque in Bernalillo county and for which the time of expenditure was extended in Laws 2014, Chapter 64, Section 8 is extended through fiscal year 2018.

### **Chapter 83 Section 24 Laws 2016**

SECTION 24. NEW MEXICO STATE FAIRGROUNDS INFRASTRUCTURE AND IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project originally authorized in Subsection 1 of Section 16 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 15 and further reauthorized in Laws 2013, Chapter 202, Section 5 to make infrastructure and other improvements at the New Mexico state fairgrounds in Albuquerque in Bernalillo county and for which the time of expenditure was extended in Laws 2014, Chapter 64, Section 16 is extended through fiscal year 2018.

### **Chapter 83 Section 25 Laws 2016**

SECTION 25. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE SECURITY CAMERAS AND INFRASTRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the appropriation to the Indian affairs department in Subsection 2 of Section 28 of Chapter 226 of Laws 2013 for security cameras and infrastructure at the southwestern Indian polytechnic institute in Albuquerque in Bernalillo county is extended through fiscal year 2018.

### **Chapter 83 Section 26 Laws 2016**

SECTION 26. SOUTHWEST SECONDARY LEARNING CENTER SMART LAB EQUIPMENT AND UPGRADES--CHANGE TO UNIVERSITY OF NEW MEXICO STADIUM IMPROVEMENTS AND SOUND SYSTEM--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to

the public education department in Subsection 20 of Section 18 of Chapter 226 of Laws 2013 for equipment and upgrades for the smart lab at Southwest Secondary learning center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico to plan, design, construct, purchase and install improvements, including replacing the sound system, at University stadium at the university of New Mexico in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 27 Laws 2016**

SECTION 27. SOUTHWEST SECONDARY LEARNING CENTER INFORMATION TECHNOLOGY--CHANGE TO UNIVERSITY OF NEW MEXICO STADIUM SOUND SYSTEM--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 166 of Section 13 of Chapter 66 of Laws 2014 for the purchase and installation of information technology at Southwest Secondary learning center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is appropriated to the board of regents of the university of New Mexico to plan, design, construct, purchase and install improvements, including replacing the sound system, at University stadium at the university of New Mexico in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 28 Laws 2016**

SECTION 28. DIGITAL ARTS AND TECHNOLOGY ACADEMY INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 52 of Section 13 of Chapter 66 of Laws 2014 to purchase and install information technology, including related equipment, furniture and infrastructure, at the Digital Arts and Technology academy in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2018.

### **Chapter 83 Section 29 Laws 2016**

SECTION 29. LA ACADEMIA DE ESPERANZA COLLABORATIVE WORKSHOP PURCHASE AND INSTALL--CHANGE TO WORKSHOP, OUTDOOR CLASSROOM, BUILDINGS AND GROUNDS IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 101 of Section 13 of Chapter 66 of Laws 2014 to purchase and install a collaborative workshop for La Academia de Esperanza in the Albuquerque public school district in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish, equip and improve the collaborative workshop, outdoor classroom, buildings and grounds, including the purchase and installation of related equipment, fencing, information technology, wiring and infrastructure, for La Academia de Esperanza.



## **Chapter 83 Section 30 Laws 2016**

SECTION 30. LA PROMESA EARLY LEARNING CENTER CHARTER SCHOOL HEATING, VENTILATION AND AIR CONDITIONING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project authorized in Subsection 43 of Section 8 of Chapter 64 of Laws 2012 to plan, design and construct a heating, ventilation and air conditioning system at La Promesa early learning center charter school in the Albuquerque public school district in Bernalillo county is extended through fiscal year 2018.

## **Chapter 83 Section 31 Laws 2016**

SECTION 31. NUESTROS VALORES CHARTER SCHOOL INFORMATION TECHNOLOGY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 108 of Section 18 of Chapter 226 of Laws 2013 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 is extended through fiscal year 2018.

## **Chapter 83 Section 32 Laws 2016**

SECTION 32. CATRON COUNTY COMMUNICATIONS IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 86 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design, construct, equip and furnish communications improvements, including repeaters and related equipment, in Reserve in Catron county may include such communications improvements throughout Catron county.

## **Chapter 83 Section 33 Laws 2016**

SECTION 33. CATRON COUNTY HEALTH CLINIC CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 29 of Section 16 of Chapter 64 of Laws 2012 to plan, design, construct, equip and furnish the county health clinic in Reserve in Catron county is extended through fiscal year 2018.

## **Chapter 83 Section 34 Laws 2016**

SECTION 34. ROSWELL FISK BUILDING RESTROOM FACILITY--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 69 of Section 31 of Chapter 226 of Laws 2013 for the Fisk building restroom facility in Roswell in Chaves county may include planning, design, renovation and construction of additional restroom facilities in downtown Roswell in Chaves county.

## **Chapter 83 Section 35 Laws 2016**

~~[SECTION 35. RAMAH CHAPTER SENIOR CENTER IMPROVEMENTS FOR CODE COMPLIANCE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 7 of Section 4 of Chapter 5 of Laws 2011 (S.S.) to make improvements for building code compliance, including purchase and installation of equipment, to the Ramah chapter senior center on the Navajo Nation in Cibola county is extended through fiscal year 2018.] LINE-ITEM VETO~~

## **Chapter 83 Section 36 Laws 2016**

SECTION 36. CANNON AIR FORCE BASE LAND AND WATER RIGHTS PURCHASE--CHANGE TO CANNON AIR FORCE BASE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation originally authorized in Subsection 2 of Section 15 of Chapter 111 of Laws 2006 and reauthorized in Laws 2007, Chapter 341, Section 98 and further reauthorized to the office of military base planning and support in Laws 2010 (2nd S.S.), Chapter 4, Section 22 and subsequently reauthorized in Laws 2014, Chapter 64, Section 20 to acquire land and associated water rights for land adjacent to Cannon air force base for expenditure in conjunction with Curry county shall not be expended for the original or reauthorized purposes but is changed to purchase land and water rights and to develop infrastructure and to plan, design, construct and improve Cannon air force base in Curry county. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 37 Laws 2016**

SECTION 37. TRES AMIGAS PROJECT ROAD IMPROVEMENTS--CHANGE TO CURRY COUNTY ROADS 4, 10, D AND V IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--One hundred sixty-three thousand one hundred twenty-five dollars (\$163,125) of the unexpended balance of the appropriation to the department of transportation originally authorized in Subsection 16 of Section 18 of Chapter 64 of Laws 2012 to plan, design and construct road improvements for the Tres Amigas project in Curry county and for which the time of expenditure was extended in Laws 2015, Chapter 147, Section 20 is changed to plan, design and construct improvements to county roads 4, 10, D and V in Curry county. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 38 Laws 2016**

SECTION 38. TRES AMIGAS PROJECT ROAD IMPROVEMENTS--CHANGE TO CLOVIS CURRY COUNTY ROAD I CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--One hundred sixty-three thousand one hundred twenty-five dollars (\$163,125) of the unexpended balance of the appropriation to the department of transportation originally authorized in Subsection 16 of Section 18 of Chapter 64 of Laws 2012 to plan, design and construct road improvements for the Tres

Amigas project in Curry county and for which the time of expenditure was extended in Laws 2015, Chapter 147, Section 20 is changed to plan, design and construct an all-weather road on county road I in Clovis in Curry county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 39 Laws 2016**

SECTION 39. ANTHONY WATER AND SANITATION DISTRICT WATER LINE IMPROVEMENTS FOR GADSDEN HIGH SCHOOL--CHANGE TO IMPROVEMENTS FOR WATER LINES IN DONA ANA COUNTY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 11 of Section 20 of Chapter 3 of Laws 2015 (S.S.) to construct, purchase and install improvements to the water lines serving Gadsden high school in the Anthony water and sanitation district in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install improvements to the water lines of that water and sanitation district in Dona Ana county.

### **Chapter 83 Section 40 Laws 2016**

SECTION 40. KIT CARSON ROAD IMPROVEMENTS--CHANGE TO FIELD OF DREAMS LIGHTING, IRRIGATION SYSTEM AND BLEACHERS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 26 of Section 36 of Chapter 226 of Laws 2013 for improvements to Kit Carson road in Dona Ana county shall not be expended for the original purpose but is appropriated to the public education department to plan, design, purchase and install field lighting, an irrigation system and bleachers at the Field of Dreams recreational complex in the Las Cruces public school district in Dona Ana county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 41 Laws 2016**

SECTION 41. EDDY COUNTY SOUTHWEST CARLSBAD BYPASS ROAD CONSTRUCTION--CHANGE TO ACQUIRE RIGHTS OF WAY AND CONSTRUCT RELIEF ROUTE--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 32 of Section 33 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct a bypass road around the southwest of Carlsbad in Eddy county between United States highways 285 and 62 is changed to acquire rights of way and to plan, design and construct a loop bypass around Carlsbad between United States highways 285 and 62/180 in Eddy county.

### **Chapter 83 Section 42 Laws 2016**

SECTION 42. HOPE FIRE DEPARTMENT BUILDING EXPANSIONS AND ADDITIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 61 of Section 16 of Chapter 64 of

Laws 2012 to plan, design, construct, renovate, furnish and equip expansion of and additions to the fire department building in Hope in Eddy county is extended through fiscal year 2018.

### **Chapter 83 Section 43 Laws 2016**

SECTION 43. SILVER CITY BASEBALL AND SOCCER FIELDS CONCESSION STANDS, LIGHTING AND RESTROOMS IMPROVEMENTS--CHANGE TO SILVER CITY BASEBALL AND SOCCER FIELDS IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 118 of Section 22 of Chapter 66 of Laws 2014 to construct and equip concession stands, lighting and restrooms at the baseball and soccer fields in Silver City in Grant county shall not be expended for the original purpose but is changed to construct, repair and improve baseball and soccer fields in Silver City in Grant county.

### **Chapter 83 Section 44 Laws 2016**

~~[SECTION 44. EAST PUERTO DE LUNA COMMUNITY DITCH IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 2 of Section 15 of Chapter 64 of Laws 2012 to plan, design and install piping and concrete ditch lining on the east Puerto de Luna community ditch in Guadalupe county is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

### **Chapter 83 Section 45 Laws 2016**

SECTION 45. SANTA ROSA AMBULANCE--CHANGE TO ILFELD WAREHOUSE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 118 of Section 31 of Chapter 226 of Laws 2013 for an ambulance in Santa Rosa in Guadalupe county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish and landscape the Ilfeld warehouse and a parking lot, including the purchase and installation of equipment, in Santa Rosa in Guadalupe county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 46 Laws 2016**

~~[SECTION 46. SANTA ROSA CONSOLIDATED SCHOOL DISTRICT VOCATIONAL EQUIPMENT AND TOOLS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 211 of Section 13 of Chapter 66 of Laws 2014 to purchase and install vocational equipment and tools for the career readiness program in the Santa Rosa consolidated school district in Guadalupe county is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

## **Chapter 83 Section 47 Laws 2016**

SECTION 47. SANTA ROSA JAMES WALLACE PARK POWER DAM--  
CHANGE TO ILFELD WAREHOUSE IMPROVEMENTS--SEVERANCE TAX BONDS.--  
The unexpended balance of the appropriation to the local government division in  
Subsection 140 of Section 28 of Chapter 3 of Laws 2015 (S.S.) for the James Wallace  
park power dam shall not be expended for the original purpose but is changed to plan,  
design, construct, renovate, furnish and landscape facilities and a parking lot and to  
purchase equipment for the Ilfeld warehouse in Santa Rosa in Guadalupe county.

## **Chapter 83 Section 48 Laws 2016**

SECTION 48. VAUGHN AMBULANCE PURCHASE--EXTEND TIME--  
SEVERANCE TAX BONDS.--The time of expenditure for the local government division  
project in Subsection 122 of Section 22 of Chapter 66 of Laws 2014 to purchase and  
equip an ambulance in Vaughn in Guadalupe county is extended through fiscal year  
2018.

## **Chapter 83 Section 49 Laws 2016**

SECTION 49. HIDALGO COUNTY RODEO MEDICAL CLINIC  
CONSTRUCTION--CHANGE TO HIDALGO COUNTY FAIRGROUNDS  
IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the  
appropriation to the local government division in Subsection 124 of Section 22 of  
Chapter 66 of Laws 2014 to plan, design and construct a medical clinic in Rodeo in  
Hidalgo county shall not be expended for the original purpose but is changed to plan,  
design, construct, renovate and equip the Hidalgo county fairgrounds in Hidalgo county.

## **Chapter 83 Section 50 Laws 2016**

SECTION 50. LOVINGTON CHAPARRAL PARK AUTOMATIC IRRIGATION  
SYSTEM--CHANGE TO LOVINGTON FIRE STATION CONSTRUCTION--  
SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local  
government division in Subsection 146 of Section 28 of Chapter 3 of Laws 2015 (S.S.)  
for an automatic irrigation system in Chaparral park in Lovington in Lea county shall not  
be expended for the original purpose but is changed to plan, design, construct and  
equip a fire station in Lovington in Lea county.

## **Chapter 83 Section 51 Laws 2016**

SECTION 51. LOVINGTON WATER SYSTEM AND NORTH WELL FIELD--  
CHANGE TO LOVINGTON WELLS AND WATER SYSTEM IMPROVEMENTS--  
SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the  
department of environment in Subsection 50 of Section 16 of Chapter 66 of Laws 2014  
for wells and water system improvements for a well field north of Lovington in Lea

county shall not be expended for the original purpose but is changed to acquire land for and to plan, design and construct wells and water system improvements for Lovington in Lea county.

### **Chapter 83 Section 52 Laws 2016**

SECTION 52. LOVINGTON WELLS CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 19 of Section 11 of Chapter 64 of Laws 2012 to plan, design and construct wells in Lovington in Lea county is extended through fiscal year 2018.

### **Chapter 83 Section 53 Laws 2016**

SECTION 53. CAPITAN DEPOT MUSEUM IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the energy, minerals and natural resources department in Subsection 1 of Section 16 of Chapter 3 of Laws 2015 (S.S.) for improvements to the historic Capitan Depot museum in Capitan in Lincoln county is appropriated to the local government division for that museum.

### **Chapter 83 Section 54 Laws 2016**

SECTION 54. YA-TA-HEY WATER AND SANITATION DISTRICT WATER SYSTEM IMPROVEMENTS--CHANGE TO CARBON COAL ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 42 of Section 23 of Chapter 226 of Laws 2013 for water system and site improvements for the Ya-Ta-Hey water and sanitation district in McKinley county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements to Carbon Coal road in McKinley county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 55 Laws 2016**

SECTION 55. NAVAJO NATION LONG-TERM CARE FACILITY CONSTRUCTION--CHANGE TO DEERSPRINGS ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 21 of Section 5 of Chapter 226 of Laws 2013 for a long-term care facility in the Navajo Nation in Navajo in McKinley county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements to Deersprings road, including bridge and drainage improvements, in McKinley county. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 56 Laws 2016**

SECTION 56. TSA-YA-TOH AND MANUELITO CHAPTERS MULTIPURPOSE CENTER--CHANGE TO MANUELITO CANYON ROAD IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 24 of Section 25 of Chapter 3 of Laws 2015 (S.S.) for a multipurpose center in the Tsa-Ya-Toh and Manuelito chapters of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements to Manuelito Canyon road, including bridge and drainage improvements, in McKinley county.

## **Chapter 83 Section 57 Laws 2016**

SECTION 57. RAMAH NAVAJO POLICE STATION RENOVATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the local government division project originally authorized in Subsection 142 of Section 22 of Chapter 66 of Laws 2014 and reauthorized to the Indian affairs department in Laws 2015, Chapter 147, Section 33 to plan, design, construct, renovate, furnish and equip the police station in the Ramah Navajo area of McKinley county is appropriated to the local government division for that police station. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 58 Laws 2016**

~~[SECTION 58. MANUELITO CHAPTER SENIOR CENTER RENOVATION--CHANGE TO ADMINISTRATIVE SERVICE CENTER--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long term services department in Subsection 20 of Section 5 of Chapter 226 of Laws 2013 to construct and renovate the senior center in the Manuelito chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design, renovate, construct and improve the old head start building, including parking area upgrades, to serve as an administrative service center in that chapter. The time of expenditure is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

## **Chapter 83 Section 59 Laws 2016**

SECTION 59. RAMAH CHAPTER NAVAJO POLICE STATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 136 of Section 31 of Chapter 226 of Laws 2013 and reauthorized to the Indian affairs department in Laws 2015, Chapter 147, Section 34 to plan, design, construct, renovate, furnish and equip the police station in the Ramah Navajo area of McKinley county is appropriated to the local government division for that purpose. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 60 Laws 2016**

~~[SECTION 60. RED LAKE CHAPTER WATER TANK IMPROVEMENTS-- CHANGE TO UTILITY IMPROVEMENTS AND POWERLINE EXTENSION-- SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 62 of Section 16 of Chapter 66 of Laws 2014 for site improvements and remediation for a community water tank in the Red Lake chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the Indian affairs department to plan, design and construct utility improvements, including powerline extensions, in that chapter.~~

## **Chapter 83 Section 61 Laws 2016**

~~SECTION 61. THOREAU COMMUNITY CENTER KITCHEN RENOVATION-- CHANGE TO THOREAU MULTIPURPOSE AND RECREATION CENTER-- EXTEND TIME-- SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 138 of Section 31 of Chapter 226 of Laws 2013 to renovate the community center kitchen in Thoreau in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct a multipurpose and recreation center in Thoreau in McKinley county. The time of expenditure is extended through fiscal year 2018.] *LINE-ITEM VETO*~~

## **Chapter 83 Section 62 Laws 2016**

~~SECTION 62. THOREAU CHAPTER VETERANS SERVICE CENTER-- [CHANGE AGENCY--]EXPAND PURPOSE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 20 of Section 19 of Chapter 66 of Laws 2014 to plan, design and construct a veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county [is appropriated to the local government division and] may include furnishing and equipping that veterans service center. *LINE-ITEM VETO*~~

## **Chapter 83 Section 63 Laws 2016**

~~SECTION 63. THOREAU CHAPTER VETERANS SERVICE CENTER CONSTRUCTION--[CHANGE AGENCY---]EXPAND PURPOSE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 23 of Section 25 of Chapter 3 of Laws 2015 (S.S.) to construct, equip and furnish a veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county [is appropriated to the local government division for that veterans service center and] may include planning and design work. *LINE-ITEM VETO*~~

## **Chapter 83 Section 64 Laws 2016**



SECTION 64. TSA-YA-TOH CHAPTER RAILWAY INDUSTRIAL PARK CONSTRUCTION--CHANGE TO TSA-YA-TOH CHAPTER HOUSE CONSTRUCTION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 23 of Section 19 of Chapter 66 of Laws 2014 to plan, design and construct a railway industrial park in the Tsa-Ya-Toh chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan, design and construct improvements to the chapter house for that chapter.

### **Chapter 83 Section 65 Laws 2016**

SECTION 65. UPPER HOLMAN COMMUNITY MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS ASSOCIATION FLUORIDE TREATMENT FACILITY--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of environment project in Subsection 148 of Section 16 of Chapter 66 of Laws 2014 to plan, design and construct a fluoride treatment facility for the upper Holman community mutual domestic water consumers and mutual sewage works association in Holman in Mora county may include the acquisition of land for that facility.

### **Chapter 83 Section 66 Laws 2016**

SECTION 66. EASTERN NEW MEXICO WATER UTILITY AUTHORITY PUMP STATION--CHANGE TO GROUND WATER PIPELINE--EXTEND TIME--SEVERANCE TAX BONDS.--One hundred twenty-two thousand dollars (\$122,000) of the unexpended balance of the appropriation to the department of environment in Subsection 54 of Section 23 of Chapter 226 of Laws 2013 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 shall not be expended for the original purpose but is changed to plan, design and construct a ground water pipeline for the eastern New Mexico water utility authority. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 67 Laws 2016**

~~[SECTION 67. ROCK SPRINGS CHAPTER VETERANS FACILITY--CHANGE TO ROCK SPRINGS CHAPTER MULTIPURPOSE CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 19 of Section 28 of Chapter 226 of Laws 2013 to plan, design and construct a veterans facility in the Rock Springs chapter of the Navajo Nation in McKinley and San Juan counties shall not be expended for the original purpose but is changed to plan, design and construct a multipurpose center for that chapter. The time of expenditure is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

### **Chapter 83 Section 68 Laws 2016**

SECTION 68. SOUTHERN NEW MEXICO CORRECTIONAL FACILITY AND CENTRAL NEW MEXICO CORRECTIONAL FACILITY KITCHENS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 3 of Section 5 of Chapter 5 of Laws 2011 (S.S.) to renovate and equip the kitchens at the southern New Mexico correctional facility in Dona Ana county and the central New Mexico correctional facility in Valencia county is extended through fiscal year 2018.

### **Chapter 83 Section 69 Laws 2016**

SECTION 69. SPACEPORT TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the spaceport authority project originally authorized in Subsection C of Section 76 of Chapter 92 of Laws 2008 and reauthorized in Laws 2012, Chapter 63, Section 62 to purchase rights of way, drainage and paving improvements and transportation infrastructure improvements in Sierra county and Dona Ana county related to the spaceport, and for which the time of expenditure was extended in Laws 2014, Chapter 64, Section 37, is extended through fiscal year 2018.

### **Chapter 83 Section 70 Laws 2016**

SECTION 70. OTERO COUNTY SLASH PIT--CHANGE TO ALAMOGORDO GRIGGS FIELD DETENTION BASIN IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--Two hundred fifteen thousand five hundred dollars (\$215,500) of the unexpended balance of the appropriation to the energy, minerals and natural resources department in Subsection 1 of Section 14 of Chapter 66 of Laws 2014 for a slash pit in Otero county shall not be expended for the original purpose but is appropriated to the office of the state engineer to design, construct and equip phase 1a and 1b improvements to the Griggs field detention basin in Alamogordo in Otero county.

### **Chapter 83 Section 71 Laws 2016**

SECTION 71. OTERO COUNTY DOG CANYON FLOOD CONTROL STRUCTURE--CHANGE TO CHAPARRAL COMMUNITY CENTER KITCHEN--CHANGE AGENCY--SEVERANCE TAX BONDS.--One hundred thousand dollars (\$100,000) of the unexpended balance of the appropriation to the office of the state engineer in Subsection 4 of Section 18 of Chapter 3 of Laws 2015 (S.S.) for a flood control structure in the Dog canyon area of Otero county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct and equip a kitchen in the community center in Chaparral in Otero county.

### **Chapter 83 Section 72 Laws 2016**

SECTION 72. MESCALERO APACHE TRIBE I-SAH-DIN-DII INFRASTRUCTURE DEVELOPMENT PROJECT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project in

Subsection 22 of Section 28 of Chapter 226 of Laws 2013 to design and construct infrastructure improvements to the I-Sah-Din-Dii housing development for the Mescalero Apache Tribe in Otero county is extended through fiscal year 2018.

### **Chapter 83 Section 73 Laws 2016**

SECTION 73. RIO DE CHAMA ACEQUIAS ASSOCIATION WATER AND WATER STORAGE RIGHTS PURCHASE--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The interstate stream commission project in Subsection 10 of Section 15 of Chapter 64 of Laws 2012 to purchase water rights and water storage rights at Abiquiu dam for the Rio de Chama acequias association in the Medanales area in Rio Arriba county may include the purchase of water rights and water storage rights at El Vado dam. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 74 Laws 2016**

SECTION 74. NEW MEXICO STATE POLICE DISTRICT OFFICE--CHANGE TO CONSTRUCT AND DEMOLISH--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 3 of Section 5 of Chapter 64 of Laws 2012 to plan, design, renovate, expand, furnish and equip the New Mexico state police district office in Espanola in Rio Arriba county is changed to plan, design, construct, furnish and equip that state police district office, including demolition of the old office. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 75 Laws 2016**

SECTION 75. NEW MEXICO STATE UNIVERSITY ALCALDE SUSTAINABLE AGRICULTURE SCIENCE CENTER--CHANGE TO LOS LUCEROS PROPERTY IMPROVEMENTS--CHANGE AGENCY--SEVERANCE TAX BONDS.--Two hundred thousand dollars (\$200,000) of the unexpended balance of the appropriation to the board of regents of New Mexico state university in Subsection 13 of Section 39 of Chapter 3 of Laws 2015 (S.S.) for the sustainable agriculture science center at Alcalde in Rio Arriba county shall not be expended for the original purpose but is appropriated to the cultural affairs department for improvements and renovations to the facilities and grounds at the Los Luceros property in Rio Arriba county.

### **Chapter 83 Section 76 Laws 2016**

SECTION 76. ESPANOLA COURT AND JAIL BUILDINGS REMODELED TO EXPAND THE CITY HALL--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 152 of Section 31 of Chapter 226 of Laws 2013 to plan, design, construct and remodel the former municipal court and jail buildings to expand the city hall in Espanola in Rio Arriba county is extended through fiscal year 2018.

## **Chapter 83 Section 77 Laws 2016**

SECTION 77. ESPANOLA LIBRARY AND DIGITAL MEDIA CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 91 of Section 16 of Chapter 64 of Laws 2012 to plan, design and construct a library and digital media center in Espanola in Rio Arriba county is extended through fiscal year 2018.

## **Chapter 83 Section 78 Laws 2016**

SECTION 78. RIO ARRIBA COUNTY INDUSTRIAL PARK ROAD RECREATION FIELDS AND WALKING TRAILS--CHANGE TO ESPANOLA VALLEY REGIONAL SPORTSPLEX BATHROOM AND CONCESSION FACILITIES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 164 of Section 22 of Chapter 66 of Laws 2014 to construct recreational softball fields and walking trails on Industrial Park road in Espanola in Rio Arriba county shall not be expended for the original purpose but is changed to plan, design and construct bathroom and concession facilities for the Espanola valley regional sportsplex in Espanola in Rio Arriba county.

## **Chapter 83 Section 79 Laws 2016**

~~[SECTION 79. DIXON ACEQUIA DE LA PLAZA REHABILITATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 9 of Section 15 of Chapter 64 of Laws 2012 to plan, design and construct the rehabilitation of the acequia de La Plaza in Dixon in Rio Arriba county is extended through fiscal year 2018.] LINE-ITEM VETO~~

## **Chapter 83 Section 80 Laws 2016**

SECTION 80. SANTA FE COUNTY ROAD 90 IMPROVEMENTS--CHANGE TO ESPANOLA VALLEY REGIONAL SPORTSPLEX IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 45 of Section 18 of Chapter 64 of Laws 2012 for improvements to Santa Fe county road 90 shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct bathroom and concession facilities for a regional sportsplex in Espanola in Rio Arriba county. The time of expenditure is extended through fiscal year 2018.

## **Chapter 83 Section 81 Laws 2016**

SECTION 81. EASTERN NEW MEXICO WATER UTILITY AUTHORITY PUMP STATION--CHANGE TO ROOSEVELT COUNTY ROADS AND ROAD IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--

Fifty thousand dollars (\$50,000) of the unexpended balance of the appropriation to the department of environment in Subsection 54 of Section 23 of Chapter 226 of Laws 2013 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 shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct roads and road improvements in Roosevelt county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 82 Laws 2016**

SECTION 82. BLOOMFIELD RECYCLED WATER STORAGE POND--CHANGE TO EFFLUENT REUSE PROJECT AND WASTEWATER TREATMENT PLANT IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 48 of Section 20 of Chapter 3 of Laws 2015 (S.S.) for a recycled water storage pond in Bloomfield in San Juan county shall not be expended for the original purpose but is changed to plan, design and construct an effluent reuse project, including improvements to the wastewater treatment plant, in Bloomfield in San Juan county.

### **Chapter 83 Section 83 Laws 2016**

SECTION 83. GADII'AHI-TO'KOI SENIOR CENTER DEMOLITION--CHANGE TO SENIOR CENTER DESIGN AND CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 28 of Section 28 of Chapter 226 of Laws 2013 for demolition of the condemned senior center in the Gadii'ahi-To'koi chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is changed to plan, design and construct a senior center for that chapter. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 84 Laws 2016**

SECTION 84. NEWCOMB CHAPTER PARKING LOT IMPROVEMENT AND CONSTRUCTION--CHANGE TO STREETLIGHT IMPROVEMENT AND CONSTRUCTION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 35 of Section 19 of Chapter 66 of Laws 2014 to plan, design and construct improvements to a parking area in the Newcomb chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design, construct and improve streetlights in the area of Navajo route 5001 and United States highway 491 in the Newcomb chapter.

### **Chapter 83 Section 85 Laws 2016**

SECTION 85. TSE'DAA'KAAN CHAPTER IRRIGATION SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of

expenditure for the Indian affairs department project originally authorized in Subparagraph (c) of Paragraph (7) of Subsection A of Section 18 of Chapter 105 of Laws 2010 and reauthorized to the local government division in Laws 2012, Chapter 63, Section 70 and further reauthorized to the Indian affairs department in Laws 2014, Chapter 64, Section 42 for irrigation system improvements, including rebuilding the pump house and replacing pumps, for the Hogback irrigation project in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county is extended through fiscal year 2018.

### **Chapter 83 Section 86 Laws 2016**

SECTION 86. TSE'DAA'KAAN CHAPTER IRRIGATION SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 40 of Section 15 of Chapter 126 of Laws 2004 and reauthorized to the Indian affairs department in Laws 2009, Chapter 128, Section 394 and further reauthorized in Laws 2011, Chapter 183, Section 87 and reauthorized to the local government division in Laws 2012, Chapter 63, Section 73 and subsequently reauthorized to the Indian affairs department in Laws 2014, Chapter 64, Section 43 for irrigation system improvements, including rebuilding the pump house and replacing pumps, for the Hogback irrigation project in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county is extended through fiscal year 2018.

### **Chapter 83 Section 87 Laws 2016**

SECTION 87. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE INFRASTRUCTURE AND SECURITY--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 6 of Section 5 of Chapter 5 of Laws 2011 (S.S.) for security and infrastructure improvements at the New Mexico behavioral health institute in Las Vegas in San Miguel county may include mold and asbestos testing, abatement and remediation. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 88 Laws 2016**

SECTION 88. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE NEW MEADOWS LONG-TERM CARE FACILITY PATIENT HOUSING UNITS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 4 of Section 5 of Chapter 64 of Laws 2012 for patient housing units at the new Meadows long-term care facility at the New Mexico behavioral health institute in Las Vegas in San Miguel county and for other patient health and safety improvements at department of health facilities statewide is extended through fiscal year 2018.

### **Chapter 83 Section 89 Laws 2016**

SECTION 89. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE OLD MEADOWS BUILDING DEMOLITION AND SITE IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 12 of Section 9 of Chapter 226 of Laws 2013 to demolish a building in preparation for phase 3 of the new Meadows building at the New Mexico behavioral health institute in Las Vegas in San Miguel county may include planning, designing, constructing, equipping and furnishing phase 3 of the new Meadows building project.

### **Chapter 83 Section 90 Laws 2016**

SECTION 90. BERNALILLO WATER LINE ADDITION--CHANGE TO WELL 2 ARSENIC TREATMENT SYSTEM--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 29 of Section 20 of Chapter 3 of Laws 2015 (S.S.) for a river crossing water line for Bernalillo in Sandoval county shall not be expended for the original purpose but is changed to purchase and install an arsenic treatment system for municipal drinking water well 2 in Bernalillo in Sandoval county.

### **Chapter 83 Section 91 Laws 2016**

SECTION 91. CUBA WASTEWATER TREATMENT PLANT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 41 of Section 11 of Chapter 64 of Laws 2012 to plan, design and construct a wastewater treatment plant for Cuba in Sandoval county is extended through fiscal year 2018.

### **Chapter 83 Section 92 Laws 2016**

~~[SECTION 92. PUEBLO OF JEMEZ FIRE APPARATUS BAYS CONSTRUCTION--CHANGE TO METAL BUILDING AND CONCRETE PAD--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 37 of Section 28 of Chapter 226 of Laws 2013 to construct fire apparatus bays for the Pueblo of Jemez in Sandoval county shall not be expended for the original purpose but is changed to plan, design and construct a metal building with a concrete pad for adobe production in that pueblo. The time of expenditure is extended through fiscal year 2018.]~~ *LINE-ITEM VETO*

### **Chapter 83 Section 93 Laws 2016**

SECTION 93. TORREON-STAR LAKE CHAPTER WATER LINE--CHANGE TO BATHROOM ADDITIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 43 of Section 28 of Chapter 226 of Laws 2013 for a Cayaditto camp and Torreon south water line in the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county shall not be expended for the original purpose but is changed to plan, design and

construct bathroom additions for Cayaditto camp and Torreon south in that chapter. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 94 Laws 2016**

SECTION 94. RAMIREZ THOMAS ELEMENTARY SCHOOL PUBLIC ADDRESS SYSTEM--CHANGE TO FURNITURE, FIXTURES AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 171 of Section 18 of Chapter 226 of Laws 2013 for a public address system at Ramirez Thomas elementary school in the Santa Fe public school district in Santa Fe county shall not be expended for the original purpose but is changed to purchase and install furniture, fixtures and equipment for that school. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 95 Laws 2016**

SECTION 95. SANTA FE AFFORDABLE HOUSING FOR VETERANS--CHANGE TO MADRID FIRE STATION IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--Twenty thousand dollars (\$20,000) of the unexpended balance of the appropriation to the local government division in Subsection 179 of Section 31 of Chapter 226 of Laws 2013 for affordable housing for veterans and low- to moderate-income families in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct and equip improvements to the fire station in Madrid in Santa Fe county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 96 Laws 2016**

SECTION 96. SANTA FE COUNTY WOMEN'S HEALTH BUILDING RENOVATION--CHANGE TO SANTA FE WOMEN'S HEALTH BUILDING RENOVATION AND EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 192 of Section 22 of Chapter 66 of Laws 2014 to design and construct renovations to the women's health building in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, renovate, construct, improve and furnish facilities, including the purchase and installation of medical, pharmacy and security equipment and information technology and related equipment and infrastructure, at the women's health services building in Santa Fe in Santa Fe county.

### **Chapter 83 Section 97 Laws 2016**

SECTION 97. SANTA FE COUNTY WOMEN'S HEALTH SERVICES MEDICAL EQUIPMENT--CHANGE TO SANTA FE COUNTY WOMEN'S HEALTH BUILDING RENOVATION AND EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 212 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to purchase a unit dose packaging system



for women and family health services in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, renovate, construct, improve and furnish facilities, including the purchase and installation of medical, pharmacy and security equipment and information technology and related equipment and infrastructure, at the women's health services building in Santa Fe in Santa Fe county.

### **Chapter 83 Section 98 Laws 2016**

SECTION 98. SANTA FE COUNTY WOMEN'S HEALTH SERVICES EQUIP--CHANGE TO SANTA FE COUNTY WOMEN'S HEALTH BUILDING RENOVATION AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 183 of Section 31 of Chapter 226 of Laws 2013 to purchase and install medical and security equipment and information technology at the women's health services facility in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, renovate, construct, improve and furnish facilities, including the purchase and installation of medical, pharmacy and security equipment and information technology and related equipment and infrastructure, at the women's health services building in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 99 Laws 2016**

SECTION 99. SANTA FE AFFORDABLE HOUSING FOR VETERANS--CHANGE TO SANTA FE TRANSIT FLEET ROOF STRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--Thirty thousand dollars (\$30,000) of the unexpended balance of the appropriation to the local government division in Subsection 179 of Section 31 of Chapter 226 of Laws 2013 to construct infrastructure for a subdivision of affordable housing for veterans and low- to moderate-income families in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct a roof structure for the transit fleet in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 100 Laws 2016**

SECTION 100. SANTA FE PUBLIC HEALTH AND SAFETY INFRASTRUCTURE--CHANGE TO [~~WELCOME SIGNAGE,~~] PARK AND TRANSIT CENTER BUILDING IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 216 of Section 28 of Chapter 3 of Laws 2015 (S.S.) for public health and safety infrastructure in Santa Fe in Santa Fe county shall not be used for the original purpose but is changed to plan, design, purchase, construct [~~and install welcome signage,~~] park improvements and transit center building improvements in Santa Fe in Santa Fe county. *LINE-ITEM VETO*

### **Chapter 83 Section 101 Laws 2016**

SECTION 101. TAXATION AND REVENUE DEPARTMENT EQUIPMENT PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the taxation and revenue department project originally authorized in Laws 2013, Chapter 226, Section 35 and reauthorized in Laws 2014, Chapter 64, Section 51 to purchase and install equipment, including remittance units, mail inserters and a motor vehicle division mobile unit, in Santa Fe in Santa Fe county is extended through fiscal year 2018.

### **Chapter 83 Section 102 Laws 2016**

SECTION 102. NEW MEXICO STATE VETERANS' HOME SKILLED NURSING ALZHEIMER'S UNIT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 14 of Section 5 of Chapter 92 of Laws 2008 for construction of the Alzheimer's skilled nursing unit at the New Mexico state veterans' home in Truth or Consequences in Sierra county and reauthorized in Laws 2012, Chapter 63, Section 99 to include planning, designing, equipping, furnishing and landscaping and to extend the time of expenditure, and for which the time of expenditure was extended again in Laws 2014, Chapter 64, Section 54, is extended through fiscal year 2018.

### **Chapter 83 Section 103 Laws 2016**

SECTION 103. NEW MEXICO STATE VETERANS' HOME SKILLED NURSING ALZHEIMER'S UNIT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 9 of Section 5 of Chapter 5 of Laws 2011 (S.S.) for construction of the Alzheimer's skilled nursing unit at the New Mexico state veterans' home in Truth or Consequences in Sierra county and reauthorized in Laws 2012, Chapter 63, Section 100 to include furnishing and equipping is extended through fiscal year 2018.

### **Chapter 83 Section 104 Laws 2016**

SECTION 104. REGIONAL VETERANS CEMETERIES STATEWIDE--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the veterans' services department in Laws 2014, Chapter 66, Section 34 to match federal funding to plan, design and construct regional veterans cemeteries statewide may include land acquisition. The time of expenditure is extended through fiscal year 2024.

### **Chapter 83 Section 105 Laws 2016**

SECTION 105. LLANO QUEMADO COMMUNITY CENTER CONCRETE SLAB, ENTRANCE AND FENCING--CHANGE TO BUILDING IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 224 of Section 28 of Chapter 3 of Laws 2015 (S.S.) for a concrete slab, entrance improvements and fencing at the Llano Quemado

community center in Taos county shall not be expended for the original purpose but is changed to plan, design and construct building improvements for that community center.

### **Chapter 83 Section 106 Laws 2016**

SECTION 106. QUESTA WATERSHED AND RIVER RESTORATION PROJECT--CHANGE TO SALAZAR ROAD CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 140 of Section 16 of Chapter 64 of Laws 2012 to plan and design watershed and river restoration in Questa in Taos county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct improvements to Salazar road in Taos in Taos county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 107 Laws 2016**

SECTION 107. TAOS COUNTY AGRICULTURAL CENTER 4-H INDOOR ARENA ADDITION--CHANGE TO IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 143 of Section 16 of Chapter 64 of Laws 2012 to construct an addition to the county 4-H indoor arena multipurpose facility at the county agricultural center in Taos in Taos county shall not be expended for the original purpose but is changed to construct improvements to that facility. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 108 Laws 2016**

SECTION 108. UNION COUNTY JUDICIAL COMPLEX PLAN AND DESIGN--CHANGE TO UNION COUNTY LAW ENFORCEMENT COMPLEX--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 220 of Section 31 of Chapter 226 of Laws 2013 to plan and design a judicial complex in Union county shall not be expended for the original purpose but is changed to plan, design and construct a law enforcement complex in Union county. The time of expenditure is extended through fiscal year 2018.

### **Chapter 83 Section 109 Laws 2016**

SECTION 109. VALENCIA COUNTY MEADOW LAKE POLICE SUBSTATION IMPROVEMENTS--CHANGE TO MEADOW LAKE FIRE SUBSTATION CONSTRUCTION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 244 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct improvements to the Meadow Lake police substation and grounds in Los Lunas in Valencia county shall not

be expended for the original purpose but is changed to plan, design and construct a Meadow Lake fire substation in Valencia county.

### **Chapter 83 Section 110 Laws 2016**

SECTION 110. LOS LUNAS WASTEWATER TREATMENT CAPACITY EXPANSION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The department of environment project in Subsection 132 of Section 16 of Chapter 66 of Laws 2014 to construct and install improvements to expand the wastewater treatment capacity in Los Lunas in Valencia county may include planning and designing improvements to the wastewater treatment capacity in Los Lunas.

### **Chapter 83 Section 111 Laws 2016**

SECTION 111. VALENCIA COUNTY ANIMAL CONTROL FACILITY EXPANSION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 151 of Section 16 of Chapter 64 of Laws 2012 to design and construct an expansion of the animal control facility in Los Lunas in Valencia county is extended through fiscal year 2018.

### **Chapter 83 Section 112 Laws 2016**

SECTION 112. VALENCIA COUNTY EL CERRO COMMUNITY CENTER IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 243 of Section 28 of Chapter 3 of Laws 2015 (S.S.) to plan, design and construct improvements, including a roof and a water well, to El Cerro community center in Los Lunas in Valencia county may include a soccer field and the purchase of water rights for that community center.

### **Chapter 83 Section 113 Laws 2016**

SECTION 113. Laws 2014, Chapter 66, Section 45 is amended to read:

"SECTION 45. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED PROJECTS--APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Notwithstanding the provisions of Section 7-27-12, Section 7-27-12.2 and Section 22-24-4 NMSA 1978, 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 2014 through 2018, unless otherwise provided for in Section 3 of the 2014 Work New Mexico Act, for the following purposes:

1. four million one hundred sixteen thousand nine hundred ninety-three dollars (\$4,116,993) to plan, design, construct, renovate, equip and furnish the Ditzler

auditorium and recreation center and the library building, including demolition of the Bert Reeves learning center, and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county;

2. one million eight hundred forty-four thousand fifteen dollars (\$1,844,015) to plan, design, construct, renovate, equip and furnish the Quimby gymnasium and natatorium and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county; and

3. two million two hundred ninety-four thousand four hundred eleven dollars (\$2,294,411) to plan, design, construct, renovate, equip and furnish residential cottages, including the demolition of Sacramento dormitory, and to make other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county."

## **Chapter 83 Section 114 Laws 2016**

SECTION 114. Laws 2014, Chapter 66, Section 46 is amended to read:

"SECTION 46. NEW MEXICO SCHOOL FOR THE DEAF PROJECT-- APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.-- Notwithstanding the provisions of Section 7-27-12, Section 7-27-12.2 and Section 22-24-4 NMSA 1978, seven million thirty-eight thousand three hundred sixty-five dollars (\$7,038,365) is 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 2014 through 2018, unless otherwise provided for in Section 3 of the 2014 Work New Mexico Act, to plan, design, construct, renovate, equip and furnish Cartwright hall at the New Mexico school for the deaf in Santa Fe in Santa Fe county."

## **Chapter 83 Section 115 Laws 2016**

SECTION 115. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

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SFC/Senate Bill 172, aa, w/ec, partial veto

Approved March 9, 2016

## **LAWS 2016, CHAPTER 84**

## AN ACT

RELATING TO HEALTH CARE; ENACTING THE ASSISTED OUTPATIENT TREATMENT ACT; PROVIDING FOR ASSISTED OUTPATIENT TREATMENT PROCEEDINGS; PROVIDING FOR SEQUESTRATION AND CONFIDENTIALITY OF RECORDS.

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

### **Chapter 84 Section 1 Laws 2016**

SECTION 1. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Assisted Outpatient Treatment Act"."

### **Chapter 84 Section 2 Laws 2016**

SECTION 2. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"DEFINITIONS.--As used in the Assisted Outpatient Treatment Act:

A. "advance directive for mental health treatment" means an individual instruction or power of attorney for mental health treatment made pursuant to the Mental Health Care Treatment Decisions Act;

B. "agent" means an individual designated in a power of attorney for health care to make a mental health care decision for the individual granting the power;

C. "assertive community treatment" means a team treatment approach designed to provide comprehensive community-based psychiatric treatment, rehabilitation and support to persons with serious and persistent mental disorders;

D. "assisted outpatient treatment" means categories of outpatient services ordered by a district court, including case management services, care coordination or assertive community treatment team services, prescribed to treat a patient's mental disorder and to assist a patient in living and functioning in the community or to attempt to prevent a relapse or deterioration that may reasonably be predicted to result in harm to the patient or another or the need for hospitalization. Assisted outpatient treatment may include:

(1) medication;

(2) periodic blood tests or urinalysis to determine compliance with prescribed medications;

(3) individual or group therapy;

(4) day or partial-day programming activities;

(5) educational and vocational training or activities;

(6) alcohol and substance abuse treatment and counseling;

(7) periodic blood tests or urinalysis for the presence of alcohol or illegal drugs for a patient with a history of alcohol or substance abuse;

(8) supervision of living arrangements; and

(9) any other services prescribed to treat the patient's mental disorder and to assist the patient in living and functioning in the community, or to attempt to prevent a deterioration of the patient's mental or physical condition;

E. "covered entity" means a health plan, a health care clearinghouse or a health care provider that transmits any health information in electronic form;

F. "guardian" means a judicially appointed guardian having authority to make mental health care decisions for an individual;

G. "least restrictive appropriate alternative" means treatment and conditions that:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives; and

(2) do not restrict physical movement or require residential care, except as reasonably necessary for the administration of treatment or the protection of the patient;

H. "likely to result in 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;

I. "likely to result in serious harm to self" 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 grave passive neglect;

J. "mandated service" means a service specified in a court order requiring assisted outpatient treatment;

K. "participating municipality or county" means a municipality or county that has entered into a memorandum of understanding with its respective district court with respect to the funding of such district court's administrative expenses, including legal fees, for proceedings pursuant to the Assisted Outpatient Treatment Act;

L. "patient" means a person receiving assisted outpatient treatment pursuant to a court order;

M. "power of attorney for health care" means the designation of an agent to make health care decisions for the individual granting the power, made while the individual has capacity;

N. "provider" means an individual or organization licensed, certified or otherwise authorized or permitted by law to provide mental or physical health diagnosis or treatment in the ordinary course of business or practice of a profession;

O. "qualified professional" means a physician, licensed psychologist, prescribing psychologist, certified nurse practitioner or clinical nurse specialist with a specialty in mental health, or a physician assistant with a specialty in mental health;

P. "qualified protective order" means, with respect to protected health information, an order of a district court or stipulation of parties to a proceeding under the Assisted Outpatient Treatment Act;

Q. "respondent" means a person who is the subject of a petition or order for assisted outpatient treatment;

R. "surrogate decision-maker" means:

(1) an agent designated by the respondent;

(2) a guardian; or

(3) a treatment guardian; and

S. "treatment guardian" means a person appointed pursuant to Section 43-1-15 NMSA 1978 to make mental health treatment decisions for a person who has been found by clear and convincing evidence to be incapable of making the person's own mental health treatment decisions."

## **Chapter 84 Section 3 Laws 2016**



SECTION 3. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"ASSISTED OUTPATIENT TREATMENT--CRITERIA.--A person may be ordered to participate in assisted outpatient treatment if the court finds by clear and convincing evidence that the person:

A. is eighteen years of age or older and is a resident of a participating municipality or county;

B. has a primary diagnosis of a mental disorder;

C. has demonstrated a history of lack of compliance with treatment for a mental disorder that has:

(1) at least twice within the last forty-eight months, been a significant factor in necessitating hospitalization or necessitating receipt of services in a forensic or other mental health unit or a jail, prison or detention center; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the person that occurred within the forty-eight-month period;

(2) resulted in one or more acts of serious violent behavior toward self or others or threats of, or attempts at, serious physical harm to self or others within the last forty-eight months; provided that the forty-eight-month period shall be extended by the length of any hospitalization, incarceration or detention of the person that occurred within the forty-eight-month period; or

(3) resulted in the person being hospitalized, incarcerated or detained for six months or more and the person is to be discharged or released within the next thirty days or was discharged or released within the past sixty days;

D. is unwilling or unlikely, as a result of a mental disorder, to participate voluntarily in outpatient treatment that would enable the person to live safely in the community without court supervision;

E. is in need of assisted outpatient treatment as the least restrictive appropriate alternative to prevent a relapse or deterioration likely to result in serious harm to self or likely to result in serious harm to others; and

F. will likely benefit from, and the person's best interests will be served by, receiving assisted outpatient treatment."

## **Chapter 84 Section 4 Laws 2016**

SECTION 4. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"PETITION TO THE COURT.--

A. A petition for an order authorizing assisted outpatient treatment may be filed in the district court for the county in which the respondent is present or reasonably believed to be present; provided that such district court is a party to a memorandum of understanding with a participating municipality or county.

B. A petition for an order authorizing assisted outpatient treatment may be filed only by the following persons:

(1) a person eighteen years of age or older who resides with the respondent;

(2) the parent or spouse of the respondent;

(3) the sibling or child of the respondent; provided that the sibling or child is eighteen years of age or older;

(4) the director of a hospital where the respondent is hospitalized;

(5) the director of a public or charitable organization or agency or a home where the respondent resides and that provides mental health services to the respondent;

(6) a qualified professional who either supervises the treatment of or treats the respondent for a mental disorder or has supervised or treated the respondent for a mental disorder within the past forty-eight months; or

(7) a surrogate decision-maker.

C. The petition shall be entitled "In the Matter of \_\_\_\_\_" and shall include:

(1) each criterion for assisted outpatient treatment as set forth in Section 3 of the Assisted Outpatient Treatment Act;

(2) facts that support the petitioner's belief that the respondent meets each criterion; provided that the hearing on the petition need not be limited to the stated facts; and

(3) whether the respondent is present or is reasonably believed to be present within the county where the petition is filed.

D. The petition shall be accompanied by an affidavit of a qualified professional that shall state that:

(1) the qualified professional has personally examined the respondent no more than ten days prior to the filing of the petition, that the qualified professional recommends assisted outpatient treatment for the respondent and that the qualified professional is willing and able to testify at the hearing on the petition either in person or by contemporaneous transmission from a different location; or

(2) no more than ten days prior to the filing of the petition, the qualified professional or the qualified professional's designee has unsuccessfully attempted to persuade the respondent to submit to an examination, that the qualified professional has reason to believe that the respondent meets the criteria for assisted outpatient treatment and that the qualified professional is willing and able to examine the respondent and testify at the hearing on the petition either in person or by contemporaneous transmission from a different location."

## **Chapter 84 Section 5 Laws 2016**

SECTION 5. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"QUALIFIED PROTECTIVE ORDER.--

A. A motion seeking a qualified protective order shall accompany each petition for an order authorizing assisted outpatient treatment.

B. In considering the motion, the court shall determine which parties to the proceeding and their attorneys are authorized to receive, subpoena and transmit protected health information pertaining to the respondent for purposes of the proceeding. If the petitioner is a party identified in Paragraph (1), (2) or (3) of Subsection B of Section 4 of the Assisted Outpatient Treatment Act, the court may bar or limit the disclosure of the respondent's protected health information.

C. Covered entities shall only disclose protected health information pertaining to the respondent in accordance with the court's order, except as otherwise provided by state and federal health care privacy laws.

D. Parties and their attorneys are only authorized to use the protected health information of the respondent as directed by the court's order.

E. Within forty-five days after the later of the exhaustion of all appeals or the date on which the respondent is no longer receiving assisted outpatient treatment, the parties and their attorneys and any person or entity in possession of protected health information received from a party or the party's attorney in the course of the proceeding shall destroy all copies of protected health information pertaining to the

respondent, except that counsel are not required to secure the return or destruction of protected health information submitted to the court.

F. Nothing in the order controls or limits the use of protected health information pertaining to the respondent that comes into the possession of a party or the party's attorney from a source other than a covered entity.

G. Nothing in the court's order shall authorize any party to obtain medical records or information through means other than formal discovery requests, subpoenas, depositions or other lawful process, or pursuant to a patient authorization."

## **Chapter 84 Section 6 Laws 2016**

SECTION 6. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

### **"HEARING--EXAMINATION BY A QUALIFIED PROFESSIONAL.--**

A. Upon receipt of a petition meeting all requirements of Sections 4 and 5 of the Assisted Outpatient Treatment Act, the court shall fix a date for a hearing:

(1) no sooner than three or later than seven days after the date of service or as stipulated by the parties or, upon a showing of good cause, no later than thirty days after the date of service; or

(2) if the respondent is hospitalized at the time of filing of the petition, before discharge of the respondent and in sufficient time to arrange for a continuous transition from inpatient treatment to assisted outpatient treatment.

B. A copy of the petition and notice of hearing shall be served, in the same manner as a summons, on the petitioner, the respondent, the qualified professional whose affidavit accompanied the petition, a current provider, if any, and a surrogate decision-maker, if any.

C. If the respondent has a surrogate decision-maker who wishes to provide testimony at the hearing, the court shall afford the surrogate decision-maker an opportunity to testify.

D. The respondent shall be represented by counsel at all stages of the proceedings.

E. If the respondent fails to appear at the hearing after notice, the court may conduct the hearing in the respondent's absence; provided that the respondent's counsel is present.

F. If the respondent has refused to be examined by the qualified professional whose affidavit accompanied the petition, the court may order a mental examination of the respondent as provided by Rule 1-035 (A) NMRA. The examination of the respondent may be performed by the qualified professional whose affidavit accompanied the petition. If the examination is performed by another qualified professional, the examining qualified professional shall be authorized to consult with the qualified professional whose affidavit accompanied the petition.

G. If the respondent has refused to be examined by a qualified professional and the court finds reasonable grounds to believe that the allegations of the petition are true, the court may issue a written order directing a peace officer who has completed crisis intervention training to detain and transport the respondent to a provider for examination by a qualified professional. A respondent detained pursuant to this subsection shall be detained no longer than necessary to complete the examination and in no event longer than twenty-four hours.

H. A qualified professional, who has personally examined the respondent within ten days of the filing of the petition, shall provide testimony in support of the finding that the respondent meets all of the criteria for assisted outpatient treatment and in support of the written proposed treatment plan developed pursuant to Section 7 of the Assisted Outpatient Treatment Act, including:

(1) the recommended assisted outpatient treatment, the rationale for the recommended assisted outpatient treatment and the facts that establish that such treatment is the least restrictive appropriate alternative;

(2) information regarding the respondent's access to, and the availability of, recommended assisted outpatient treatment in the community or elsewhere; and

(3) if the recommended assisted outpatient treatment includes medication, the types or classes of medication that should be authorized, the beneficial and detrimental physical and mental effects of such medication and whether such medication should be self-administered or administered by a specified provider."

## **Chapter 84 Section 7 Laws 2016**

SECTION 7. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"WRITTEN PROPOSED TREATMENT PLAN.--

A. No later than the date of the hearing, a qualified professional shall provide a written proposed treatment plan to the court. The plan shall state all treatment services recommended for the respondent and, for each such service, shall specify a provider that has agreed to provide the service.

B. In developing a written proposed treatment plan, the qualified professional shall take into account, if existing, an advance directive for mental health treatment and provide the following persons with an opportunity to participate:

- (1) the respondent;
- (2) all current treating providers;
- (3) upon the request of the respondent, an individual significant to the respondent, including any relative, close friend or individual otherwise concerned with the welfare of the respondent; and
- (4) any surrogate decision-maker.

C. The written proposed treatment plan shall include case management services or an assertive community treatment team to provide care coordination and assisted outpatient treatment services recommended by the qualified professional. If the plan includes medication, it shall state whether such medication should be self-administered or administered by a specified provider and shall specify type and dosage range of medication. In no event shall the plan recommend the use of physical force or restraints to administer medication to the respondent.

D. If the written proposed treatment plan includes alcohol or substance abuse counseling and treatment, the plan may include a provision requiring relevant testing for either alcohol or abused substances; provided that the qualified professional's clinical basis for recommending such plan provides sufficient facts for the court to find that:

- (1) the respondent has a history of co-occurring alcohol or substance abuse; and
- (2) such testing is necessary to prevent a relapse or deterioration that would be likely to result in serious harm to self or likely to result in serious harm to others.

E. If the respondent has executed an advance directive for mental health treatment, the qualified professional shall include a copy of such advance directive with the submission of the proposed treatment plan."

## **Chapter 84 Section 8 Laws 2016**

SECTION 8. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"DISPOSITION.--

A. After a hearing meeting all requirements of Section 6 of the Assisted Outpatient Treatment Act, receipt of a proposed treatment plan meeting all requirements of Section 7 of that act and consideration of all relevant evidence, the court may order the respondent to receive assisted outpatient treatment if it finds by clear and convincing evidence that the respondent meets all criteria set forth in Section 3 of the Assisted Outpatient Treatment Act.

B. The court's order shall:

(1) provide for a period of outpatient treatment not to exceed one year;

(2) specify the assisted outpatient treatment services that the respondent is to receive; and

(3) direct one or more specified providers to provide or arrange for all assisted outpatient treatment for the patient throughout the period of the order.

C. If the court order includes medication, it shall state the type or types of medication and the dosage range found to be necessary, based on the treatment plan and evidence presented. The court may order the respondent to self-administer medication or accept the administration of such medication by a specified provider. In no event shall the court require or authorize the use of physical force or restraints to administer medication to the respondent.

D. The court may not order treatment that has not been recommended by the qualified professional and included in the written proposed treatment plan, nor direct the participation of a provider that has not been specified in such plan.

E. Nothing in the Assisted Outpatient Treatment Act, nor in the court's order, shall require any of the following to make payment for any services or items not otherwise a covered benefit under the terms of the applicable program or contract of insurance:

(1) a health maintenance organization;

(2) a managed health care plan;

(3) a health insurance company;

(4) a group health plan that provides medical care to employees or their dependents under the federal Employee Retirement Income Security Act of 1974 directly or through insurance, reimbursement or other means; or

(5) the state medicaid program.

F. If the court has received testimony from a surrogate decision-maker or a copy of an advance directive for mental health treatment executed by the respondent, the treatment order shall not conflict with the preferences expressed in such testimony or advance directive without a showing of good cause."

## **Chapter 84 Section 9 Laws 2016**

SECTION 9. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"EXPEDITIOUS APPEAL.--There shall be a right to an expeditious appeal from a final order in a proceeding under the Assisted Outpatient Treatment Act."

## **Chapter 84 Section 10 Laws 2016**

SECTION 10. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"EFFECT OF DETERMINATION THAT RESPONDENT IS IN NEED OF ASSISTED OUTPATIENT TREATMENT.--An assisted outpatient treatment order shall not be construed as a determination that the respondent is incompetent."

## **Chapter 84 Section 11 Laws 2016**

SECTION 11. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"APPLICATIONS FOR CONTINUED PERIODS OF TREATMENT.--

A. Prior to the expiration of the period of assisted outpatient treatment, a party or the respondent's surrogate decision-maker may apply to the court for a subsequent order authorizing continued assisted outpatient treatment for a period not to exceed one year. The application shall be served upon those persons required to be served with notice of a petition for an order authorizing assisted outpatient treatment and every specified provider.

B. If the court's disposition of the application does not occur prior to the expiration date of the current order, the current order shall remain in effect until the court's disposition. The disposition of the application shall occur no later than ten calendar days following the filing of the application.

C. A respondent may be ordered to participate in continued assisted outpatient treatment if the court finds by clear and convincing evidence that the respondent:

(1) continues to have a primary diagnosis of a mental disorder;



(2) is unwilling or unlikely, as a result of a mental disorder, to participate voluntarily in outpatient treatment that would enable the respondent to live safely in the community without court supervision;

(3) is in need of continued assisted outpatient treatment as the least restrictive appropriate alternative in order to prevent a relapse or deterioration likely to result in serious harm to self or likely to result in serious harm to others; and

(4) will likely benefit from, and the respondent's best interests will be served by, receiving continued assisted outpatient treatment."

## **Chapter 84 Section 12 Laws 2016**

SECTION 12. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"APPLICATION TO STAY, VACATE, MODIFY OR ENFORCE AN ORDER.--

A. In addition to any other right or remedy available by law with respect to the court order for assisted outpatient treatment, a party or the respondent's surrogate decision-maker may apply to the court to stay, vacate, modify or enforce the order. The application shall be served upon those persons required to be served with notice of a petition for an order authorizing assisted outpatient treatment and every specified provider. The disposition of the application shall occur no later than ten calendar days following the filing of the application.

B. A specified provider shall apply to the court for approval before instituting a proposed material change in mandated services or assisted outpatient treatment unless such change is contemplated in the order. The application shall be served upon those persons required to be served with notice of a petition for an order authorizing assisted outpatient treatment and every specified provider. The disposition of the application shall occur no later than ten calendar days following the filing of the application. Nonmaterial changes may be instituted by the provider without court approval. For purposes of this subsection, "material change" means an addition or deletion of a category of assisted outpatient treatment and does not include a change in medication or dosage contemplated in the order that, based upon the clinical judgment of the provider, is in the best interest of the patient.

C. A court order requiring periodic blood tests or urinalysis for the presence of alcohol or abused substances shall be subject to review after six months by a qualified professional, who shall be authorized to terminate such blood tests or urinalysis without further action by the court."

## **Chapter 84 Section 13 Laws 2016**

SECTION 13. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

**"FAILURE TO COMPLY WITH ASSISTED OUTPATIENT TREATMENT.--**

A. If a qualified professional determines that a respondent has materially failed to comply with the assisted outpatient treatment as ordered by the court, such that the qualified professional believes that the respondent's condition is likely to result in serious harm to self or likely to result in serious harm to others and that immediate detention is necessary to prevent such harm, the qualified professional shall certify the need for detention and transport of the respondent for emergency mental health evaluation and care pursuant to the provisions of Paragraph (4) of Subsection A of Section 43-1-10 NMSA 1978.

B. A respondent's failure to comply with an order of assisted outpatient treatment is not grounds for involuntary civil commitment or a finding of contempt of court, or for the use of physical force or restraints to administer medication to the respondent."

## **Chapter 84 Section 14 Laws 2016**

SECTION 14. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

**"SEQUESTRATION AND CONFIDENTIALITY OF RECORDS.--**

A. All records or information containing protected health information relating to the respondent, including all pleadings and other documents filed in the matter, social records, diagnostic evaluations, psychiatric or psychologic reports, videotapes, transcripts and audio recordings of interviews and examinations, recorded testimony and the assisted outpatient treatment plan that was produced or obtained as part of a proceeding pursuant to the Assisted Outpatient Treatment Act, shall be confidential and closed to the public.

B. The records described in Subsection A of this section may only be disclosed to the parties and:

- (1) court personnel;
- (2) court-appointed special advocates;
- (3) attorneys representing parties to the proceeding;
- (4) surrogate decision-makers;

(5) peace officers requested by the court to perform any duties or functions related to the respondent as deemed appropriate by the court;

(6) qualified professionals and providers involved in the evaluation or treatment of the respondent;

(7) public health authorities or entities conducting public health surveillance or research, if authorized by law; and

(8) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court."

## **Chapter 84 Section 15 Laws 2016**

SECTION 15. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended) 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 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. "protected health information" means individually identifiable health information transmitted by or maintained in an electronic form or any other form or media that relates to the:

(1) past, present or future physical or mental health or condition of an individual;

(2) provision of health care to an individual; or

(3) payment for the provision of health care to an individual;

S. "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;

T. "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;

U. "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

V. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **Chapter 84 Section 16 Laws 2016**

SECTION 16. Section 43-1-19 NMSA 1978 (being Laws 1977, Chapter 279, Section 18, as amended) is amended to read:

### **"43-1-19. DISCLOSURE OF INFORMATION.--**

A. Except as otherwise provided in the code, no person shall, without the authorization of the client, disclose or transmit any confidential information from which a person well acquainted with the client might recognize the client as the described person, or any code, number or other means that can be used to match the client with confidential information regarding the client.

B. Authorization from the client shall not be required for the disclosure or transmission of confidential information in the following circumstances:

(1) when the request is from a mental health or developmental disability professional or from an employee or trainee working with a person with a mental disability or developmental disability, to the extent that the practice, employment or training on behalf of the client requires access to such information is necessary;

(2) when such disclosure is necessary to protect against a clear and substantial risk of imminent serious physical injury or death inflicted by the client on the client's self or another;

(3) when the disclosure is made pursuant to the provisions of the Assisted Outpatient Treatment Act, using reasonable efforts to limit protected health information to that which is minimally necessary to accomplish the intended purpose of the use, disclosure or request;

(4) when the disclosure of such information is to the primary caregiver of the client and the disclosure is only of information necessary for the continuity of the client's treatment in the judgment of the treating physician or certified psychologist who discloses the information; or

(5) when such disclosure is to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the client at the residential facility. The information disclosed shall be limited to data identifying the client, facility and treating or supervising physician and the dates and duration of the residential treatment. It shall not be a defense to an insurer's obligation to pay that the information relating to the residential treatment of the client, apart from information disclosed pursuant to this section, has not been disclosed to the insurer.

C. No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

(1) is in writing and signed; and

(2) contains a statement of the client's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.

D. The client has a right of access to confidential information and has the right to make copies of any information and to submit clarifying or correcting statements and other documentation of reasonable length for inclusion with the confidential information. The statements and other documentation shall be kept with the relevant confidential information, shall accompany it in the event of disclosure and shall be governed by the provisions of this section to the extent they contain confidential information. Nothing in this subsection shall prohibit the denial of access to such records when a physician or other mental health or developmental disabilities professional believes and notes in the client's medical records that such disclosure would not be in the best interests of the client. In any such case, the client has the right to petition the court for an order granting such access.

E. Where there exists evidence that the client whose consent to disclosure of confidential information is sought is incapable of giving or withholding valid consent and the client does not have a guardian or treatment guardian appointed by a court, the person seeking such authorization shall petition the court for the appointment of a treatment guardian to make a substitute decision for the client, except that if the client is less than fourteen years of age, the client's parent or guardian is authorized to consent to disclosure on behalf of the client.

F. Information concerning a client disclosed under this section shall not be released to any other person, agency or governmental entity or placed in files or computerized data banks accessible to any persons not otherwise authorized to obtain information under this section.

G. Nothing in the code shall limit the confidentiality rights afforded by federal statute or regulation.

H. A person appointed as a treatment guardian in accordance with the Mental Health and Developmental Disabilities Code may act as the client's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, Sections 1171-1179 of the Social Security Act, 42 U.S.C. Section 1320d, as amended, and applicable federal regulations to obtain access to the client's protected health information, including mental health information and relevant physical health information, and may communicate with the client's health care providers in furtherance of such treatment."

### **Chapter 84 Section 17 Laws 2016**

SECTION 17. DELAYED REPEAL.--Sections 1 through 14 of this act are repealed on July 1, 2021.

### **Chapter 84 Section 18 Laws 2016**

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 113, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 85**

AN ACT

RELATING TO PROCUREMENT; AMENDING THE PROCUREMENT CODE TO APPLY EXISTING DESIGN AND BUILD PROJECT DELIVERY AUTHORITY FOR ROAD AND HIGHWAY PROJECTS TO FEDERAL-AID HIGHWAYS.

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

### **Chapter 85 Section 1 Laws 2016**

SECTION 1. Section 13-1-119.2 NMSA 1978 (being Laws 2009, Chapter 207, Section 1) is amended to read:

"13-1-119.2. DESIGN AND BUILD PROCUREMENT FOR CERTAIN TRANSPORTATION PROJECTS.--Notwithstanding any prohibition on road and



highway construction or reconstruction projects in Section 13-1-119.1 NMSA 1978, the department of transportation may use a design and build project delivery system pursuant to Section 13-1-119.1 NMSA 1978 for projects with a maximum allowable construction cost of more than fifty million dollars (\$50,000,000) funded in whole or in part by federal-aid highway funds."

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Senate Bill 215

Approved March 9, 2016

## **LAWS 2016, CHAPTER 86**

AN ACT

RELATING TO PROCUREMENT; AMENDING THE PROCUREMENT CODE TO APPLY EXISTING DESIGN AND BUILD PROJECT DELIVERY AUTHORITY FOR ROAD AND HIGHWAY PROJECTS TO FEDERAL-AID HIGHWAYS.

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

### **Chapter 86 Section 1 Laws 2016**

SECTION 1. Section 13-1-119.2 NMSA 1978 (being Laws 2009, Chapter 207, Section 1) is amended to read:

"13-1-119.2. DESIGN AND BUILD PROCUREMENT FOR CERTAIN TRANSPORTATION PROJECTS.--Notwithstanding any prohibition on road and highway construction or reconstruction projects in Section 13-1-119.1 NMSA 1978, the department of transportation may use a design and build project delivery system pursuant to Section 13-1-119.1 NMSA 1978 for projects with a maximum allowable construction cost of more than fifty million dollars (\$50,000,000) funded in whole or in part by federal-aid highway funds."

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House Bill 206

Approved March 9, 2016

## **LAWS 2016, CHAPTER 87**

AN ACT

RELATING TO THE STATE AVIATION FUND; EXTENDING THE DISTRIBUTION OF A PORTION OF THE GROSS RECEIPTS TAX TO THE STATE AVIATION FUND.

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

## **Chapter 87 Section 1 Laws 2016**

SECTION 1. Section 7-1-6.7 NMSA 1978 (being Laws 1994, Chapter 5, Section 2, as amended) 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, 2021, 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 87 Section 2 Laws 2016**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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House Bill 242, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 88**

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; ENACTING THE UNIFORM MONEY SERVICES ACT; CREATING A FRAMEWORK FOR THE LICENSURE OF PERSONS OR BUSINESSES TO ENGAGE IN MONEY TRANSMISSIONS, CHECK CASHING AND CURRENCY EXCHANGE; PROVIDING POWERS AND DUTIES FOR THE DIRECTOR OF THE FINANCIAL INSTITUTIONS DIVISION OF THE REGULATION AND LICENSING DEPARTMENT; PRESCRIBING CIVIL AND CRIMINAL PENALTIES; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 88 Article 1 Laws 2016

Article 1

GENERAL PROVISIONS

### **Chapter 88 Section 101 Laws 2016**

SECTION 101. SHORT TITLE.--This act may be cited as the "Uniform Money Services Act".

### **Chapter 88 Section 102 Laws 2016**

SECTION 102. DEFINITIONS.--As used in the Uniform Money Services Act:

A. "applicant" means a person that files an application for a license pursuant to the Uniform Money Services Act;

B. "authorized delegate" means a person that a licensee designates to provide money services on behalf of the licensee;

C. "bank" means an institution organized under federal or state law that:

(1) accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans; or

(2) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars (\$100,000) and does not engage in the business of making commercial loans;

D. "check cashing" means receiving compensation for taking payment instruments or stored value, other than traveler's checks, in exchange for money, payment instruments or stored value delivered to the person delivering the payment instrument or stored value at the time and place of delivery without an agreement specifying when the person taking the payment instrument will present it for collection;

E. "control" means:

(1) ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or person in control of a licensee;

(2) the power to elect, appoint, choose or otherwise designate, directly or indirectly, a majority of executive officers, managers, directors, trustees or other persons exercising managerial authority of a licensee or person in control of a licensee; or

(3) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee;

F. "currency exchange" means receipt of revenues from the exchange of money of one government for money of another government;

G. "director" means the director of the financial institutions division of the regulation and licensing department;

H. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

I. "executive officer" means a president, chair of the executive committee, chief financial officer, responsible individual or other individual who performs similar functions;

J. "internet-based money services business" means a business that provides money transmission, check cashing or currency exchange services to residents of New Mexico through the internet;

K. "licensee" means a person licensed pursuant to the Uniform Money Services Act;

L. "limited station" means private premises where a check casher is authorized to engage in check cashing solely for the employees of the particular employer or group of employers specified in the check casher's license application;

M. "mobile location" means a vehicle or a movable facility where check cashing occurs;

N. "monetary value" means a medium of exchange, whether or not redeemable in money;

O. "money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments;

P. "money services" means money transmission, check cashing or currency exchange;

Q. "money transmission" means selling or issuing payment instruments, stored value or receiving money or monetary value for transmission. "Money transmission" does not include the provision solely of delivery, online or telecommunications services or network access;

R. "nationwide mortgage licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry;

S. "outstanding", with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee;

T. "payment instrument" means a check, draft, money order, traveler's check or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. "Payment instrument" does not include a credit card voucher, letter of credit or instrument that is redeemable by the issuer in goods or services;

U. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity;

V. "record", when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

W. "responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in New Mexico;

X. "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic sound, symbol or process;

Y. "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;

Z. "stored value" means monetary value that is evidenced by an electronic record;

AA. "unique identifier" means a number or other identifier assigned by protocols established by the nationwide mortgage licensing system and registry; and

BB. "unsafe or unsound practice" means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person that creates the likelihood of material loss, insolvency or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers.

## **Chapter 88 Section 103 Laws 2016**

SECTION 103. EXCLUSIONS.--The Uniform Money Services Act does not apply to:

A. the United States or a department, agency or instrumentality thereof;

B. money transmission by the United States postal service or by a contractor on behalf of the United States postal service;

C. a state, county, city or any other governmental agency or governmental subdivision of a state;

D. a bank, bank holding company, office of an international banking corporation, branch of a foreign bank, corporation organized pursuant to the federal Bank Service Company Act or corporation organized pursuant to the federal Edge Act;

E. electronic funds transfer of governmental benefits for a federal, state, county or governmental agency by a contractor on behalf of the United States or a

department, agency or instrumentality thereof, or a state or governmental subdivision, agency or instrumentality thereof;

F. a board of trade designated as a contract market pursuant to the federal Commodity Exchange Act or a person that, in the ordinary course of business, provides clearance and settlement services for a board of trade to the extent of its operation as or for such a board;

G. a registered futures commission merchant under the federal commodities laws to the extent of its operation as such a merchant;

H. a person that provides clearance or settlement services pursuant to a registration as a clearing agency or an exemption from such registration granted under the federal securities laws to the extent of its operation as such a provider;

I. an operator of a payment system to the extent that it provides processing, clearing or settlement services, between or among persons excluded by this section, in connection with wire transfers, credit card transactions, debit card transactions, stored-value transactions, automated clearinghouse transfers or similar funds transfers;

J. a person registered as a securities broker-dealer under federal or state securities laws to the extent of its operation as such a broker-dealer;

K. an attorney or title company that, in connection with a real property transaction, receives and disburses domestic currency or issues an escrow or trust fund check only on behalf of a party to the transaction;

L. a credit union regulated and insured by the national credit union association; or

M. any other person, transaction or class of persons or transactions exempted by the director's rule or any other person or transaction exempted by the director's order pursuant to a finding that the licensing of the person or transaction is not necessary to achieve the purposes of the Uniform Money Services Act.

Chapter 88 Article 2 Laws 2016

Article 2

MONEY TRANSMISSION LICENSES

## **Chapter 88 Section 201 Laws 2016**

SECTION 201. LICENSE REQUIRED.--

A. A person shall not engage in the business of money transmission or advertise, solicit or hold itself out as providing money transmission unless the person:

(1) is licensed pursuant to Article 2 of the Uniform Money Services Act; or

(2) is an authorized delegate of a person licensed pursuant to Article 2 of the Uniform Money Services Act.

B. A license pursuant to Article 2 of the Uniform Money Services Act is not transferable or assignable.

## **Chapter 88 Section 202 Laws 2016**

### **SECTION 202. APPLICATION FOR LICENSE.--**

A. A person applying for a license pursuant to Article 2 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;

(3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in New Mexico;

(4) a list of the applicant's proposed authorized delegates and the locations in New Mexico where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;

(5) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions or other disciplinary action taken against the applicant in another state;

(6) information concerning any bankruptcy or receivership proceedings affecting the applicant;



(7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored value is recorded, if applicable;

(8) the name and address of any bank through which the applicant's payment instruments and stored value will be paid;

(9) a description of the source of money and credit to be used by the applicant to provide money services; and

(10) any other information the director reasonably requires with respect to the applicant.

B. In order to fulfill the purposes of the Uniform Money Services Act, the director may establish relationships or contracts with the nationwide mortgage licensing system and registry or other entities designated by the nationwide mortgage licensing system and registry to collect and maintain records and process transaction fees or other fees related to applicants or other individuals subject to that act.

C. In connection with an application for licensing pursuant to Article 2 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide mortgage licensing system and registry the following information in a form and medium prescribed by the nationwide mortgage licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide mortgage licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

D. If an applicant is a corporation, limited liability company, partnership or other entity, the applicant shall also provide:

(1) the date of the applicant's incorporation or formation and the state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses and the employment in the ten-year period next preceding the submission of the application of each executive officer, manager, director or person that has control of the applicant;

(5) a list of any criminal convictions and material litigation in which any executive officer, manager, director or person in control of the applicant has been involved in the ten-year period next preceding the submission of the application;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application;

(7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application;

(8) if the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission pursuant to Section 13 of the federal Securities Exchange Act of 1934;

(9) if the applicant is a wholly owned subsidiary of:

(a) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed pursuant to Section 13 of the federal Securities Exchange Act of 1934; or

(b) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(10) if the applicant has a registered agent in New Mexico, the name and address of the applicant's registered agent in New Mexico; and

(11) any other information the director reasonably requires with respect to the applicant.

E. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 2 of the Uniform Money Services Act. The application shall also be accompanied by the surety bond or other security required by Section 203 of the Uniform Money Services Act.

F. The director may waive one or more requirements of Subsection C or D of this section or permit an applicant to submit other information in lieu of the required information.

G. As used in this section, "material litigation" means litigation that, according to generally accepted accounting principles, is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders or similar records.

## **Chapter 88 Section 203 Laws 2016**

### **SECTION 203. SECURITY.--**

A. Except as otherwise provided in Subsection B of this section, a surety bond, letter of credit, or other similar security acceptable to the director shall accompany an application for a license pursuant to Article 2 of the Uniform Money Services Act. Except as otherwise provided in Subsections D and F of this section, the required security shall be in the amount of three hundred thousand dollars (\$300,000) or an amount equal to one percent of the licensee's total yearly dollar volume of money transmission business in this state or the applicant's projected total volume of business in this state for the first year of licensure, whichever is greater, up to a maximum of two million dollars (\$2,000,000).

B. The security shall be in form and substance and from an issuer satisfactory to the director and payable to New Mexico for the benefit of any claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to money transmission.

C. The aggregate liability on a surety bond shall not exceed the principal sum of the bond. A claimant against a licensee may maintain an action on the bond or the director may maintain an action on behalf of the claimant.

D. A surety bond shall cover claims for so long as the director specifies, but for at least five years after the licensee ceases to provide money services in New Mexico. However, the director may permit the amount of security to be reduced or eliminated before the expiration of that time to the extent the amount of the licensee's payment instruments or stored-value obligations outstanding in New Mexico is reduced. The director may permit a licensee to substitute another form of security acceptable to the director for the security effective at the time the licensee ceases to provide money services in New Mexico.

E. In lieu of the security prescribed in this section, an applicant for a license or a licensee may provide security in form and substance and from an issuer prescribed by the director.

F. The director may increase the amount of security required to a maximum of five million dollars (\$5,000,000) if the financial condition of a licensee so requires, as evidenced by reduction of net worth, financial losses or other relevant criteria.

## **Chapter 88 Section 204 Laws 2016**

### **SECTION 204. ISSUANCE OF LICENSE.--**

A. When an application is filed pursuant to Article 2 of the Uniform Money Services Act, the director shall investigate the applicant's financial condition and responsibility, financial and business experience, character and general fitness. The director may conduct an onsite investigation of the applicant, in New Mexico or in any other state or country, the reasonable cost of which the applicant shall pay. The director shall issue a license to an applicant pursuant to Article 2 of the Uniform Money Services Act if the director finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Sections 202, 203 and 206 of the Uniform Money Services Act; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and the competence, experience, character and general fitness of the executive officers, managers, directors and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in money transmission.

B. When an application for an original license pursuant to Article 2 of the Uniform Money Services Act is complete, the director shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the director shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date:

(a) the application is deemed approved; and

(b) the license takes effect as of the first business day after expiration of the one-hundred-twenty-day period.

C. The director may for good cause extend the application period.

D. An applicant whose application is denied by the director pursuant to Article 2 of the Uniform Money Services Act may appeal the denial, within thirty days after receipt of the notice of the denial, and request a hearing.

## Chapter 88 Section 205 Laws 2016

### SECTION 205. RENEWAL OF LICENSE.--

A. A license issued pursuant to Article 2 of the Uniform Money Services Act shall expire on December 31 each year. A licensee pursuant to Article 2 of the Uniform Money Services Act shall pay an annual renewal fee of one thousand dollars (\$1,000) and twenty-five dollars (\$25.00) for each authorized delegate before November 1 of each year or, if November 1 is not a business day, on the next business day.

B. A licensee pursuant to Article 2 of the Uniform Money Services Act shall submit a renewal report with the renewal fee, in a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director. The renewal report shall state or contain:

(1) a copy of the licensee's most recent audited annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent audited consolidated annual financial statement of the parent corporation or the licensee's most recent audited consolidated annual financial statement;

(2) the number and monetary amount of payment instruments and stored value sold by the licensee in New Mexico that have not been included in a renewal report and the monetary amount of payment instruments and stored value currently outstanding;

(3) a description of each material change in information submitted by the licensee in its original license application that has not been reported to the director on any required report;

(4) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in Sections 701 and 702 of the Uniform Money Services Act;

(5) proof that the licensee continues to maintain adequate security as required by Section 203 of the Uniform Money Services Act; and

(6) a list of the locations in New Mexico where the licensee or an authorized delegate of the licensee engages in money transmission or provides other money services.

C. If a licensee does not file a renewal report or pay its renewal fee by the renewal date or any extension of time granted by the director, the director shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the director sends the notice of suspension. The

suspension shall be lifted if, within twenty days after its license is suspended, the licensee:

(1) files the report and pays the renewal fee; and

(2) pays one hundred dollars (\$100) for each day after suspension that the director did not receive the renewal report and the renewal fee.

D. The director for good cause may grant an extension of the renewal date.

## **Chapter 88 Section 206 Laws 2016**

SECTION 206. NET WORTH.--A licensee pursuant to Article 2 of the Uniform Money Services Act shall maintain a net worth of at least the following amounts determined in accordance with generally accepted accounting principles:

A. for one to four locations of the licensee and authorized delegates in New Mexico, one hundred thousand dollars (\$100,000); and

B. for five or more locations of the licensee and authorized delegates in New Mexico or for an internet-based money services business, five hundred thousand dollars (\$500,000).

Chapter 88 Article 3 Laws 2016

Article 3

CHECK CASHING LICENSES

## **Chapter 88 Section 301 Laws 2016**

SECTION 301. LICENSE REQUIRED.--

A. A person shall not engage in check cashing or advertise, solicit or hold itself out as providing check cashing for which the person receives at least five hundred dollars (\$500) within a thirty-day period unless the person:

(1) is licensed pursuant to Article 3 of the Uniform Money Services Act;

(2) is licensed for money transmission pursuant to Article 2 of the Uniform Money Services Act;

(3) is licensed for currency exchange pursuant to Article 4 of the Uniform Money Services Act; or

(4) is an authorized delegate of a person licensed pursuant to Article 2 of the Uniform Money Services Act.

B. A license pursuant to Article 3 of the Uniform Money Services Act is not transferable or assignable.

## **Chapter 88 Section 302 Laws 2016**

### **SECTION 302. APPLICATION FOR LICENSE.--**

A. A person applying for a license pursuant to Article 3 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in New Mexico where the applicant proposes to engage in check cashing or currency exchange, including all limited stations and mobile locations;

(4) a description of the source of money and credit to be used by the applicant to engage in check cashing and currency exchange; and

(5) other information the director reasonably requires with respect to the applicant, but not more than the director may require pursuant to Article 2 of the Uniform Money Services Act.

B. In connection with an application for licensing pursuant to Article 3 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide mortgage licensing system and registry the following information in a form and medium prescribed by the nationwide mortgage licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide mortgage licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

C. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 3 of the Uniform Money Services Act.

## **Chapter 88 Section 303 Laws 2016**

### **SECTION 303. ISSUANCE OF LICENSE.--**

A. When an application is filed pursuant to Article 3 of the Uniform Money Services Act, the director shall investigate the applicant's financial condition and responsibility, financial and business experience, character and general fitness. The director may conduct an onsite investigation of the applicant, in New Mexico or in any other state or country, the reasonable cost of which the applicant shall pay. The director shall issue a license to an applicant pursuant to Article 3 of the Uniform Money Services Act if the director finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Section 302 of the Uniform Money Services Act; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and the competence, experience, character and general fitness of the executive officers, managers, directors and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in check cashing.

B. When an application for an original license pursuant to Article 3 of the Uniform Money Services Act is complete, the director shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the director shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date:

(a) the application is deemed approved; and

(b) the director shall issue the license, pursuant to Article 3 of the Uniform Money Services Act, to take effect as of the first business day after expiration of the one-hundred-twenty-day period.

C. The director may for good cause extend the application period.



D. An applicant whose application is denied by the director pursuant to Article 3 of the Uniform Money Services Act may appeal the denial, within thirty days after receipt of the notice of the denial, and request a hearing.

## **Chapter 88 Section 304 Laws 2016**

### **SECTION 304. RENEWAL OF LICENSE.--**

A. A license issued pursuant to Article 3 of the Uniform Money Services Act shall expire on December 31 each year. A licensee pursuant to Article 3 of the Uniform Money Services Act shall pay an annual renewal fee of one thousand dollars (\$1,000) before November 1 of each year or, if November 1 is not a business day, on the next business day.

B. A licensee pursuant to Article 3 of the Uniform Money Services Act shall submit a renewal report with the renewal fee in a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director. The renewal report shall state or contain:

(1) a description of each material change in information submitted by the licensee in its original license application that has not been reported to the director on any required report; and

(2) a list of the locations in New Mexico where the licensee or an authorized delegate of the licensee engages in check cashing or currency exchange, including limited stations and mobile locations.

C. If a licensee does not file a renewal report or pay its renewal fee by the renewal date or any extension of time granted by the director, the director shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the director sends the notice of suspension. The suspension shall be lifted if, within twenty days after its license is suspended, the licensee:

(1) files the report and pays the renewal fee; and

(2) pays one hundred dollars (\$100) for each day after suspension that the director did not receive the renewal report and the renewal fee.

D. The director for good cause may grant an extension of the renewal date.

Chapter 88 Article 4 Laws 2016

Article 4

## CURRENCY EXCHANGE LICENSES

### **Chapter 88 Section 401 Laws 2016**

#### SECTION 401. LICENSE REQUIRED.--

A. A person shall not engage in currency exchange or advertise, solicit or hold itself out as providing currency exchange for which the person receives revenues equal or greater than five percent of total revenues unless the person:

(1) is licensed pursuant to Article 4 of the Uniform Money Services Act;

(2) is licensed for money transmission pursuant to Article 2 of the Uniform Money Services Act;

(3) is licensed for check cashing pursuant to Article 3 of the Uniform Money Services Act; or

(4) is an authorized delegate of a person licensed pursuant to Article 2 of the Uniform Money Services Act.

B. A license pursuant to Article 4 of the Uniform Money Services Act is not transferable or assignable.

### **Chapter 88 Section 402 Laws 2016**

#### SECTION 402. APPLICATION FOR LICENSE.--

A. A person applying for a license pursuant to Article 4 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in New Mexico where the applicant proposes to engage in currency exchange or check cashing, including all limited stations and mobile locations;

(4) a description of the source of money and credit to be used by the applicant to engage in check cashing and currency exchange; and

(5) other information the director reasonably requires with respect to the applicant, but not more than the director may require pursuant to Article 2 of the Uniform Money Services Act.

B. In connection with an application for licensing pursuant to Article 4 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide mortgage licensing system and registry the following information in a form and medium prescribed by the nationwide mortgage licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide mortgage licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

C. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 4 of the Uniform Money Services Act.

## **Chapter 88 Section 403 Laws 2016**

### **SECTION 403. ISSUANCE OF LICENSE.--**

A. When an application is filed pursuant to Article 4 of the Uniform Money Services Act, the director shall investigate the applicant's financial condition and responsibility, financial and business experience, character and general fitness. The director may conduct an onsite investigation of the applicant, in New Mexico or in any other state or country, the reasonable cost of which the applicant shall pay. The director shall issue a license to an applicant pursuant to Article 4 of the Uniform Money Services Act if the director finds that all of the following conditions have been fulfilled:

(1) the applicant has complied with Section 402 of the Uniform Money Services Act; and

(2) the financial condition and responsibility, financial and business experience, competence, character and general fitness of the applicant and the competence, experience, character and general fitness of the executive officers, managers, directors and persons in control of the applicant indicate that it is in the interest of the public to permit the applicant to engage in currency exchange.

B. When an application for an original license pursuant to Article 4 of the Uniform Money Services Act is complete, the director shall promptly notify the applicant in a record of the date on which the application was determined to be complete and:

(1) the director shall approve or deny the application within one hundred twenty days after that date; or

(2) if the application is not approved or denied within one hundred twenty days after that date:

(a) the application is deemed approved; and

(b) the director shall issue the license, pursuant to Article 4 of the Uniform Money Services Act, to take effect as of the first business day after expiration of the one-hundred-twenty-day period.

C. The director may for good cause extend the application period.

D. An applicant whose application is denied a license by the director pursuant to Article 4 of the Uniform Money Services Act may appeal the denial, within thirty days after receipt of the notice of the denial, and request a hearing.

## **Chapter 88 Section 404 Laws 2016**

### **SECTION 404. RENEWAL OF LICENSE.--**

A. A license issued pursuant to Article 4 of the Uniform Money Services Act shall expire on December 31 each year. A licensee pursuant to Article 4 of the Uniform Money Services Act shall pay an annual renewal fee of one thousand dollars (\$1,000) before November 1 of each year or, if November 1 is not a business day, on the next business day.

B. A licensee pursuant to Article 4 of the Uniform Money Services Act shall submit a renewal report with the renewal fee in a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director. The renewal report shall state or contain:

(1) a description of each material change in information submitted by the licensee in its original license application that has not been reported to the director on any required report; and

(2) a list of the locations in New Mexico where the licensee or an authorized delegate of the licensee engages in currency exchange or check cashing, including limited stations and mobile locations.

C. If a licensee does not file a renewal report and pay its renewal fee by the renewal date or any extension of time granted by the director, the director shall send the licensee a notice of suspension. Unless the licensee files the report and pays the renewal fee before expiration of ten days after the notice is sent, the licensee's license is suspended ten days after the director sends the notice of suspension. The suspension shall be lifted if, within twenty days after its license is suspended, the licensee:

(1) files the report and pays the renewal fee; and

(2) pays one hundred dollars (\$100) for each day after suspension that the director did not receive the renewal report and the renewal fee.

D. The director for good cause may grant an extension of the renewal date.

Chapter 88 Article 5 Laws 2016

Article 5

AUTHORIZED DELEGATES

## **Chapter 88 Section 501 Laws 2016**

SECTION 501. RELATIONSHIP BETWEEN LICENSEE AND AUTHORIZED DELEGATE.--

A. As used in this section, "remit" means:

(1) to make direct payments of money to a licensee or its representative authorized to receive money; or

(2) to deposit money in a bank in an account specified by the licensee.

B. A contract between a licensee and an authorized delegate shall require the authorized delegate to operate in full compliance with the Uniform Money Services Act. The licensee shall furnish in a record to each authorized delegate policies and procedures sufficient for compliance with the Uniform Money Services Act.

C. For each authorized delegate, the licensee shall maintain records that demonstrate the licensee conducted a reasonable background investigation of each authorized delegate. A licensee shall preserve those records for at least five years after the authorized delegate's most recent designation by the licensee.

D. An authorized delegate shall remit all money owing to the licensee in accordance with the terms of the contract between the licensee and the authorized delegate.

E. If a license is suspended or revoked or a licensee does not renew its license, the director shall notify all authorized delegates of the licensee whose names are in a record filed with the director of the suspension, revocation or nonrenewal. After notice is sent or publication is made, an authorized delegate shall immediately cease to provide money services as a delegate of the licensee.

F. An authorized delegate shall not provide money services outside the scope of activity permissible pursuant to the contract between the authorized delegate and the licensee, except activity in which the authorized delegate is authorized to engage pursuant to Article 2, 3 or 4 of the Uniform Money Services Act. An authorized delegate of a licensee holds in trust for the benefit of the licensee all money net of fees received from money transmission.

G. An authorized delegate shall not use a subdelegate to conduct money services on behalf of a licensee.

H. Whenever a licensee first advises the director of the identity of a proposed delegate, the licensee shall pay a nonrefundable fee of twenty-five dollars (\$25.00) for each proposed delegate.

## **Chapter 88 Section 502 Laws 2016**

SECTION 502. UNAUTHORIZED ACTIVITY.--A person shall only act as a delegate for a licensee. A person that provides money services on behalf of a person not licensed pursuant to the Uniform Money Services Act is considered to act in its own capacity and may be subject to civil and criminal penalties for providing money services without a license.

Chapter 88 Article 6 Laws 2016

Article 6

EXAMINATIONS; REPORTS; RECORDS

## **Chapter 88 Section 601 Laws 2016**

SECTION 601. AUTHORITY TO CONDUCT EXAMINATIONS.--

A. The director may conduct an annual examination of a licensee or of any of its authorized delegates upon forty-five days' notice in a record to the licensee.

B. The director may examine a licensee or its authorized delegate at any time, without notice, if the director has reason to believe that the licensee or authorized delegate is engaging in an unsafe or unsound practice or has violated or is violating the Uniform Money Services Act or a rule adopted or an order issued pursuant to that act.

C. If the director concludes that an onsite examination is necessary pursuant to Subsection A of this section, in New Mexico or in any other state or country, the licensee shall pay the reasonable cost of the examination.

D. Information obtained during an examination pursuant to the Uniform Money Services Act may be disclosed only as provided in Section 607 of that act.

## **Chapter 88 Section 602 Laws 2016**

SECTION 602. COOPERATION.--The director may consult and cooperate with other state agencies, agencies of another state or of the United States or the nationwide mortgage licensing system and registry in enforcing and administering the Uniform Money Services Act. They may jointly pursue examinations and take other official action that they are otherwise empowered to take.

## **Chapter 88 Section 603 Laws 2016**

### SECTION 603. REPORTS.--

A. A licensee shall file with the director a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director and that shall contain any material change in information provided in the licensee's application or the information provided by the licensee to the nationwide mortgage licensing system and registry. The record shall be filed within fifteen business days after the licensee has reason to know of the change.

B. A licensee shall file with the director within forty-five days after the end of each fiscal quarter a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director and that shall contain a current list of all authorized delegates and locations in New Mexico where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.

C. A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

(1) the filing of a petition by or against the licensee pursuant to the United States Bankruptcy Code for bankruptcy or reorganization;

(2) the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization or the making of a general assignment for the benefit of its creditors;

(3) the commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed;

(4) the cancellation or other impairment of the licensee's bond or other security;

(5) a charge or conviction of the licensee or of an executive officer, manager, director or person in control of the licensee for a felony; or

(6) a charge or conviction of an authorized delegate for a felony.

D. The report required pursuant to Subsection C of this section shall be a record signed under penalty of perjury and in a form and in a medium prescribed by the director and shall describe the event requiring the report.

## **Chapter 88 Section 604 Laws 2016**

### **SECTION 604. CHANGE OF CONTROL.--**

A. A licensee shall:

(1) give the director notice in a record signed under penalty of perjury in a form and in a medium prescribed by the director of a proposed change of control within fifteen days after learning of the proposed change of control;

(2) request approval by the director of the proposed change of control; and

(3) submit a nonrefundable fee of two thousand dollars (\$2,000) with the notice.

B. After review of a request for approval pursuant to Subsection A of this section, the director may require the licensee to provide in a record signed under penalty of perjury in a form and in a medium prescribed by the director additional information concerning the proposed persons in control of the licensee. The additional information shall be limited to the same types required of the licensee or persons in control of the licensee as part of its original license or renewal application.

C. The director shall approve a request for change of control pursuant to Subsection A of this section if, after investigation, the director determines that the person or group of persons requesting approval has the competence, experience, character and general fitness to operate the licensee or person in control of the licensee



in a lawful and proper manner and that the public interest will not be jeopardized by the change of control.

D. When an application for a change of control pursuant to Article 6 of the Uniform Money Services Act is complete, the director shall notify the licensee in a record of the date on which the request was determined to be complete and:

(1) the director shall approve or deny the request within one hundred twenty days after that date; or

(2) if the request is not approved or denied within one hundred twenty days after that date:

(a) the request is deemed approved; and

(b) the director shall permit the change of control, pursuant to this section, to take effect as of the first business day after expiration of the one-hundred-twenty-day period.

E. The director, by rule or order, may exempt a person from any of the requirements of Paragraphs (2) and (3) of Subsection A of this section if it is in the public interest to do so.

F. Subsection A of this section does not apply to a public offering of securities.

G. Before filing a request for approval to acquire control of a licensee or person in control of a licensee, a person may request in a record a determination from the director as to whether the person would be considered a person in control of a licensee upon consummation of a proposed transaction. If the director determines that the person would not be a person in control of a licensee, the director shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of Subsections A through C of this section.

## **Chapter 88 Section 605 Laws 2016**

### **SECTION 605. RECORDS.--**

A. A licensee shall maintain the following records for determining its compliance with the Uniform Money Services Act for at least three years:

(1) a record of each payment instrument or stored-value obligation sold;

(2) a general ledger posted at least monthly containing all asset, liability, capital, income and expense accounts;

(3) bank statements and bank reconciliation records;

(4) records of outstanding payment instruments and stored-value obligations;

(5) records of each payment instrument and stored-value obligation paid within the three-year period;

(6) a list of the last known names and addresses of all of the licensee's authorized delegates; and

(7) any other records the director reasonably requires by rule.

B. The items specified in Subsection A of this section may be maintained in writing, electronically or in any other form of record that is permitted by the director.

C. Records may be maintained outside New Mexico if they are made accessible to the director on seven business-days' notice that is sent in a record.

D. All records maintained by the licensee as required in Subsections A through C of this section are open to inspection by the director pursuant to Section 601 of the Uniform Money Services Act.

## **Chapter 88 Section 606 Laws 2016**

### **SECTION 606. MONEY LAUNDERING REPORTS.--**

A. A licensee and an authorized delegate shall file with the New Mexico attorney general all reports required by federal currency reporting, recordkeeping and suspicious transaction reporting requirements as set forth in 31 U.S.C. Section 5311 et seq. (1994) or any successor law; and other federal and state laws pertaining to money laundering.

B. The timely filing of a complete and accurate report required under Subsection A of this section with the appropriate federal agency is compliance with the requirements of that subsection, unless the director notifies the licensee that the New Mexico attorney general has notified the director that reports of this type are not being regularly and comprehensively made available by the federal agency to the New Mexico attorney general.

C. In connection with each transaction that involves transmitting money in an amount of one thousand dollars (\$1,000) or more, whether sending or receiving, a licensee or, for a transaction conducted through an authorized delegate, an authorized delegate, shall retain a record of each of the following:

(1) the name and social security or taxpayer identification number, if any, of the individual presenting the transaction and of the person and the entity on whose behalf the transaction is to be effected;

(2) the type and number of the customer's verified photographic identification as described in 31 Code of Federal Regulations Section 1010.312 or any successor regulations;

(3) the customer's current occupation;

(4) the customer's current residential address; and

(5) the customer's signature.

D. The provisions of Subsection C of this section shall not apply to transactions by which a licensee's customer is making a bill payment to:

(1) a commercial creditor pursuant to a contract between the licensee and the commercial creditor; or

(2) a utility company.

## **Chapter 88 Section 607 Laws 2016**

### **SECTION 607. CONFIDENTIALITY.--**

A. Except as otherwise provided in Subsection B of this section, all information or reports obtained by the director from an applicant, licensee or authorized delegate and all information contained in or related to examination, investigation, operating or condition reports prepared by, on behalf of or for the use of the director, or financial statements, balance sheets or authorized delegate information, are confidential and are not subject to disclosure pursuant to the Public Records Act or any similar law.

B. The director may disclose information not otherwise subject to disclosure pursuant to Subsection A of this section to representatives of state or federal agencies who promise in a record signed under penalty of perjury in a form and in a medium prescribed by the director that they will maintain the confidentiality of the information or if the director finds that the release is reasonably necessary for the protection of the public and is in the interests of justice and the licensee has been given not fewer than ten days' notice in a record by the director of the director's intent to release the information.

C. This section does not prohibit the director from disclosing to the public a list of persons licensed pursuant to the Uniform Money Services Act or the aggregated financial data concerning those licensees.

## Chapter 88 Article 7 Laws 2016

### Article 7

#### PERMISSIBLE INVESTMENTS

### **Chapter 88 Section 701 Laws 2016**

#### SECTION 701. MAINTENANCE OF PERMISSIBLE INVESTMENTS.--

A. A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding payment instruments and stored-value obligations issued or sold in all states and money transmitted from all states by the licensee.

B. The director, with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The director by rule may prescribe or by order allow other types of investments that the director determines to have a safety substantially equivalent to other permissible investments.

C. Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the purchasers and holders of the licensee's outstanding payment instruments and stored-value obligations in the event of bankruptcy or receivership of the licensee.

### **Chapter 88 Section 702 Laws 2016**

#### SECTION 702. TYPES OF PERMISSIBLE INVESTMENTS.--

A. Except to the extent otherwise limited by the director pursuant to Section 701 of the Uniform Money Services Act, the following investments are permissible pursuant to Section 701 of that act:

(1) cash, a certificate of deposit or senior debt obligation of an insured depository institution as defined in Section 3 of the Federal Deposit Insurance Act;

(2) a banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the federal reserve system and is eligible for purchase by a federal reserve bank;

(3) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(4) an investment security that is an obligation of the United States or a department, agency or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a state or a governmental subdivision, agency or instrumentality thereof;

(5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts that are not more than ten days past due or doubtful of collection if the aggregate amount of receivables pursuant to this paragraph does not exceed fifty percent of the total permissible investments of a licensee and the licensee does not hold at one time receivables pursuant to this paragraph in any one person aggregating more than ten percent of the licensee's total permissible investments; and

(6) a share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission pursuant to the federal Investment Company Act of 1940 and whose portfolio is restricted by the management company's investment policy to investments specified in Paragraphs (1) through (4) of this subsection.

B. The following investments are permissible pursuant to Section 701 of the Uniform Money Services Act, but only to the extent specified:

(1) an interest-bearing bill, note, bond or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments pursuant to this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments pursuant to this paragraph in any one person aggregating more than ten percent of the licensee's total permissible investments;

(2) a share of a person traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States securities and exchange commission pursuant to the federal Investment Company Act of 1940 and whose portfolio is restricted by the management company's investment policy to shares of a person traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments pursuant to this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at one time hold investments in any one person aggregating more than ten percent of the licensee's total permissible investments;

(3) a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange, if the aggregate of the amount of principal and interest outstanding pursuant to demand-borrowing agreements pursuant to this paragraph does not exceed twenty percent of the total permissible investments of a licensee and the licensee does not at

one time hold principal and interest outstanding pursuant to demand-borrowing agreements pursuant to this paragraph with any one person aggregating more than ten percent of the licensee's total permissible investments; and

(4) any other investment the director designates, to the extent specified by the director.

C. The aggregate of investments pursuant to Subsection B of this section shall not exceed fifty percent of the total permissible investments of a licensee calculated in accordance with Section 701 of the Uniform Money Services Act.

Chapter 88 Article 8 Laws 2016

Article 8

ENFORCEMENT

## **Chapter 88 Section 801 Laws 2016**

### SECTION 801. SUSPENSION AND REVOCATION--RECEIVERSHIP.--

A. The director may suspend or revoke a license, place a licensee in receivership or order a licensee to revoke the designation of an authorized delegate if:

(1) the licensee violates the Uniform Money Services Act or a rule adopted or an order issued pursuant to that act;

(2) the licensee does not cooperate with an examination or investigation by the director;

(3) the licensee engages in fraud, intentional misrepresentation or gross negligence;

(4) an authorized delegate is convicted of a violation of a state or federal anti-money laundering statute, or violates a rule adopted or an order issued pursuant to the Uniform Money Services Act, as a result of the licensee's willful misconduct or willful blindness;

(5) the competence, experience, character or general fitness of the licensee, authorized delegate, person in control of a licensee or responsible person of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to provide money services;

(6) the licensee engages in an unsafe or unsound practice;

(7) the licensee is insolvent, suspends payment of its obligations or makes a general assignment for the benefit of its creditors; or

(8) the licensee does not remove an authorized delegate after the director issues and serves upon the licensee a final order, including a finding that the authorized delegate has violated the Uniform Money Services Act.

B. In determining whether a licensee is engaging in an unsafe or unsound practice, the director may consider the size and condition of the licensee's money transmission, the magnitude of the loss, the gravity of the violation of the Uniform Money Services Act and the previous conduct of the person involved.

## **Chapter 88 Section 802 Laws 2016**

### **SECTION 802. SUSPENSION AND REVOCATION OF AUTHORIZED DELEGATES.--**

A. The director may issue an order suspending or revoking the designation of an authorized delegate if the director finds that:

(1) the authorized delegate violated the Uniform Money Services Act or a rule adopted or an order issued pursuant to that act;

(2) the authorized delegate did not cooperate with an examination or investigation by the director;

(3) the authorized delegate engaged in fraud, intentional misrepresentation or gross negligence;

(4) the authorized delegate is convicted of a violation of a state or federal anti-money laundering statute;

(5) the competence, experience, character or general fitness of the authorized delegate or a person in control of the authorized delegate indicates that it is not in the public interest to permit the authorized delegate to provide money services; or

(6) the authorized delegate is engaging in an unsafe or unsound practice.

B. In determining whether an authorized delegate is engaging in an unsafe or unsound practice, the director may consider the size and condition of the authorized delegate's provision of money services, the magnitude of the loss, the gravity of the violation of the Uniform Money Services Act or a rule adopted or order issued pursuant to that act and the previous conduct of the authorized delegate.

C. An authorized delegate may apply for relief from a suspension or revocation of designation as an authorized delegate according to procedures prescribed by the director.

## **Chapter 88 Section 803 Laws 2016**

### **SECTION 803. ORDERS TO CEASE AND DESIST.--**

A. If the director determines that a violation of the Uniform Money Services Act, or of a rule adopted or an order issued pursuant to that act, by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers or the public as a result of the violation, or causes insolvency or significant dissipation of assets of the licensee, the director may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.

B. The director may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the director.

C. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Section 801 or 802 of the Uniform Money Services Act.

D. A licensee or an authorized delegate that is served with an order to cease and desist may petition the district court for a judicial order setting aside, limiting or suspending the enforcement, operation or effectiveness of the order pending the completion of an administrative proceeding pursuant to Section 801 or 802 of the Uniform Money Services Act.

E. An order to cease and desist expires unless the director commences an administrative proceeding pursuant to Section 801 or 802 of the Uniform Money Services Act within ten days after it is issued.

## **Chapter 88 Section 804 Laws 2016**

SECTION 804. CONSENT ORDERS.--The director may enter into a consent order at any time with a person to resolve a matter arising pursuant to the Uniform Money Services Act or a rule adopted or order issued pursuant to that act. A consent order shall be signed by the person to whom it is issued or by the person's authorized representative and shall indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that the Uniform Money Services Act or a rule adopted or an order issued pursuant to that act has been violated.

## **Chapter 88 Section 805 Laws 2016**



## SECTION 805. EMERGENCY ORDERS.--

A. The director may issue an emergency order, without prior notice and an opportunity for hearing, if the director finds that:

(1) the action, violation or condition that is the basis for the order:

(a) has caused or is likely to cause the insolvency of the licensee;

(b) has caused or is likely to cause the substantial dissipation of the licensee's assets or earnings;

(c) has seriously weakened or is likely to seriously weaken the condition of the licensee; or

(d) has seriously prejudiced or is likely to seriously prejudice the interests of the licensee, a purchaser of the licensee's money services or the public; and

(2) immediate action is necessary to protect the interests of the licensee, a purchaser of the licensee's money services or the public.

B. In connection with and as directed by an emergency order, the director may secure the records and assets of a licensee or authorized delegate that relate to the licensee's money services business.

C. An emergency order shall:

(1) state the grounds on which the order is based;

(2) advise the person against whom the order is directed that the order takes effect immediately, and, to the extent applicable, require the person to immediately cease and desist from the conduct or violation that is the subject of the order or to take the affirmative action stated in the order as necessary to correct a condition resulting from the conduct or violation or as otherwise appropriate;

(3) be delivered by personal delivery or sent by certified mail, return receipt requested, to the person against whom the order is directed at the person's last known address; and

(4) include a notice that a person may request a hearing on the order by filing a written request for a hearing with the director not later than the fifteenth day after the date the order is delivered or mailed.

D. An emergency order takes effect as soon as the order is served on the person against whom the order is directed.

E. A licensee or authorized delegate against whom an emergency order is directed must submit a written certification to the director, signed by the licensee or authorized delegate, and their principals and responsible individuals, as applicable, and each person named in the order, stating that each person has received a copy of and has read and understands the order.

F. Unless the director receives a written request for a hearing from a person against whom an emergency order is directed not later than the fifteenth day after the date the order is delivered or mailed, the order is final as to that person on the sixteenth day after the date the order is delivered or mailed.

G. A request for a hearing does not stay an emergency order.

H. A hearing on an emergency order takes precedence over any other matter pending before the director and must be held not later than the tenth day after the date the director receives the written request for hearing unless a hearing officer extends the period for good cause or the parties agree to a later hearing date.

I. A final emergency order may be appealed to the district court as provided in Section 39-3-1.1 NMSA 1978.

## **Chapter 88 Section 806 Laws 2016**

SECTION 806. CIVIL PENALTIES.--The director may assess a civil penalty against a person that violates the Uniform Money Services Act or a rule adopted or an order issued pursuant to that act in an amount not to exceed one thousand dollars (\$1,000) per day for each day the violation is outstanding.

## **Chapter 88 Section 807 Laws 2016**

### **SECTION 807. CRIMINAL PENALTIES.--**

A. A person who intentionally makes a false statement, misrepresentation or false certification in a record filed or required to be maintained pursuant to the Uniform Money Services Act or who intentionally makes a false entry or omits a material entry in such a record is guilty of a fourth degree felony.

B. A person who knowingly engages in an activity for which a license is required pursuant to the Uniform Money Services Act without being licensed pursuant to that act and who receives more than two thousand five hundred dollars (\$2,500) in compensation within a thirty-day period from this activity is guilty of a fourth degree felony.

C. A person who knowingly engages in an activity for which a license is required pursuant to the Uniform Money Services Act without being licensed pursuant to that act and who receives two thousand five hundred dollars (\$2,500) or less in compensation within a thirty-day period from this activity is guilty of a misdemeanor.

## **Chapter 88 Section 808 Laws 2016**

### SECTION 808. UNLICENSED PERSONS.--

A. If the director has reason to believe that a person has violated or is violating Section 201, 301 or 401 of the Uniform Money Services Act, the director may issue an order to show cause why an order to cease and desist should not issue requiring that the person cease and desist from the violation of Section 201, 301 or 401 of that act.

B. In an emergency, the director may petition the district court for the issuance of a temporary restraining order ex parte pursuant to the rules of civil procedure.

C. An order to cease and desist becomes effective upon service of it upon the person.

D. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Sections 901 and 902 of the Uniform Money Services Act.

E. A person that is served with an order to cease and desist for violating Section 201, 301 or 401 of the Uniform Money Services Act may petition the district court for a judicial order setting aside, limiting or suspending the enforcement, operation or effectiveness of the order pending the completion of an administrative proceeding pursuant to Sections 901 and 902 of that act.

F. An order to cease and desist expires unless the director commences an administrative proceeding within ten days after it is issued.

Chapter 88 Article 9 Laws 2016

Article 9

ADMINISTRATIVE PROCEDURES

## **Chapter 88 Section 901 Laws 2016**

### SECTION 901. POWERS OF DIRECTOR.--

A. The director may act on the director's own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with the Uniform Money Services Act, refer cases to the office of the attorney general or any other state agency or agency of another state or the United States and seek or provide remedies as provided in the Uniform Money Services Act.

B. The director may investigate and examine, in New Mexico or in any other state or country, by subpoena or otherwise, the activities, books, accounts and records of a person that provides or offers to provide money services, or a person to which a licensee has delegated its obligations pursuant to an agreement or the Uniform Money Services Act, to determine compliance with the Uniform Money Services Act. Information that identifies individuals who have agreements with the licensee shall not be disclosed to the public. In connection with the investigation, the director may:

(1) charge the person the reasonable expenses necessarily incurred to conduct the examination; and

(2) require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated.

C. The director may enter into cooperative arrangements with other state agencies or agencies of another state or of the United States, or the nationwide mortgage licensing system and registry, and may exchange with any of those entities information about a licensee, including information obtained during an examination of the licensee.

D. The director may bring an action to enforce the Uniform Money Services Act in New Mexico or in any other state or country.

E. The director may recover the reasonable expenses of enforcing the Uniform Money Services Act pursuant to Article 8 of that act, including nongovernmental attorney and expert witness fees based on the hours reasonably expended and the hourly rates for attorneys and expert witnesses of comparable experience in the community.

## **Chapter 88 Section 902 Laws 2016**

SECTION 902. HEARINGS.--Except as otherwise provided in Subsection C of Section 205, Subsection C of Section 304, Subsection C of Section 404 and Sections 803, 805 and 808 of the Uniform Money Services Act, the director shall not suspend or revoke a license, place a licensee in receivership, issue an order to cease and desist, suspend or revoke the designation of an authorized delegate or assess a civil penalty without notice and an opportunity to be heard. The director shall also hold a hearing when requested to do so by an applicant whose application for a license is denied.

Chapter 88 Article 10 Laws 2016

## Article 10

### MISCELLANEOUS PROVISIONS

#### **Chapter 88 Section 1001 Laws 2016**

SECTION 1001. UNIFORMITY OF APPLICATION AND CONSTRUCTION.--In applying and construing the Uniform Money Services 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 88 Section 1002 Laws 2016**

SECTION 1002. RULES.--The director may promulgate rules to administer and enforce the Uniform Money Services Act, including rules necessary or appropriate to:

- A. implement and clarify the Uniform Money Services Act;
- B. preserve and protect the safety and soundness of money services businesses;
- C. protect the interests of purchasers of money services and of the public;
- D. protect against drug trafficking, terrorist funding and money laundering, structuring or a related financial crime; and
- E. recover the cost of administering and enforcing the Uniform Money Services Act and other applicable law by imposing and collecting proportionate and equitable fees and costs for notices, applications, examinations, investigations and other actions required to achieve the purposes of that act.

#### **Chapter 88 Section 1003 Laws 2016**

SECTION 1003. APPOINTMENT OF SECRETARY OF STATE AS AGENT FOR SERVICE OF PROCESS--FORWARDING OF PROCESS--CONSENT TO JURISDICTION.--

A. A licensee, an authorized delegate or a person who knowingly engages in activities that are regulated by the Uniform Money Services Act and require a license, with or without filing an application or holding a license, is deemed to have:

(1) consented to the jurisdiction of the courts of this state over the licensee, authorized delegate or person for all actions arising pursuant to the Uniform Money Services Act;

(2) consented to the venue in New Mexico for all actions arising pursuant to the Uniform Money Services Act, as venue is provided pursuant to Chapter 38, Article 3 NMSA 1978, and to the convenient forum of the courts in any such venue; and

(3) appointed the secretary of state as the lawful agent of the licensee, authorized delegate or person for the purpose of accepting service of process in all actions arising pursuant to the Uniform Money Services Act.

B. Within three business days after service of process upon the secretary of state, the secretary of state shall transmit by certified mail copies of all lawful process accepted by the secretary of state as an agent to that person at the person's last known address. Service of process shall be deemed complete three business days after the secretary of state deposits the copies of the documents in the United States mail.

C. The provisions of this section are cumulative and do not diminish the provisions of any other law that:

(1) provide for the New Mexico courts to have jurisdiction over a person;

(2) provide for venue in New Mexico of any action; or

(3) provide for any other method of serving process upon a person.

## **Chapter 88 Section 1004 Laws 2016**

### **SECTION 1004. MONEY SERVICES REGULATORY FUND--CREATED--PURPOSE--APPROPRIATION.--**

A. The "money services regulatory fund" is created as a nonreverting fund in the state treasury and shall be administered by the financial institutions division of the regulation and licensing department. The fund shall consist of application, licensing, renewal, investigation and any other fees received that are associated with the costs of administering the Uniform Money Services Act and any money that is appropriated or donated or that otherwise accrues to the fund. Money in the fund shall be invested by the state investment officer in the manner that land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Income from investment of the fund shall be credited to the fund.

B. Money in the money services regulatory fund is subject to appropriation by the legislature to the financial institutions division of the regulation and licensing department to carry out the provisions of the Uniform Money Services Act.

C. Money shall be disbursed from the money services regulatory fund only on warrant of the secretary of finance and administration upon vouchers signed by the

director of the financial institutions division or the director's authorized representative. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund.

### **Chapter 88 Section 1005 Laws 2016**

SECTION 1005. TEMPORARY PROVISION--LICENSEE TRANSITION.--The director of the financial institutions division of the regulation and licensing department shall promulgate such rules as are necessary to transition licensees pursuant to Section 58-20-1 NMSA 1978 to the licensing provisions of the Uniform Money Services Act.

### **Chapter 88 Section 1006 Laws 2016**

SECTION 1006. DELAYED REPEAL.--Section 58-20-1 NMSA 1978 (being Laws 1965, Chapter 293, Section 1, as amended) is repealed effective July 1, 2017.

### **Chapter 88 Section 1007 Laws 2016**

SECTION 1007. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2017.

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House Bill 250, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 89**

### **AN ACT**

RELATING TO INSURANCE; CHANGING THE TERMS "INSURANCE AGENT", "INSURANCE BROKER" AND "INSURANCE SOLICITOR" TO "INSURANCE PRODUCER"; INTRODUCING INSURANCE PRODUCER LICENSE RENEWAL AND FEE REQUIREMENTS; INTRODUCING LICENSING AND FEE REQUIREMENTS FOR INDEPENDENT REVIEW ORGANIZATIONS; INTRODUCING FILING FEES FOR CONTINUING EDUCATION PROVIDERS; INTRODUCING PENALTY FOR LATE NOTIFICATION OF CHANGE OF NAME OR ADDRESS; REVISING FEES; INCREASING CAPITAL, SURPLUS AND DEPOSIT REQUIREMENTS; CHANGING DEFINITIONS AND CLASSIFICATIONS OF INSURANCE; CHANGING INSURANCE LICENSING PROVISIONS; REQUIRING ADJUSTERS TO FULFILL CONTINUING EDUCATION REQUIREMENTS; REQUIRING APPLICANTS FOR AN ADJUSTER LICENSE TO PASS AN EXAMINATION; AMENDING, REPEALING AND ENACTING CERTAIN SECTIONS OF THE NEW MEXICO INSURANCE CODE.

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

## **Chapter 89 Section 1 Laws 2016**

SECTION 1. Section 59A-5-16 NMSA 1978 (being Laws 2007, Chapter 282, Section 1) is amended to read:

"59A-5-16. CAPITAL FUNDS, DEPOSITS, REQUIRED FOR CERTIFICATE OF AUTHORITY.--

A. To qualify for certificate of authority to transact any one kind or combination of kinds of insurance in this state, an insurer shall possess:

(1) if a stock insurer, paid-in capital stock and, when first so authorized, surplus all as shown in Schedule I of this section; or

(2) if a mutual, reciprocal or Lloyds insurer, basic capital surplus, including guaranty funds, if any, and additional unassigned surplus when first so authorized, as required under Schedule I of this section.

B. Except that an insurer that on January 1, 1985, having applied for a certificate on or before February 15, 1984, held a valid and subsisting certificate of authority to transact insurance in this state may, if a domestic insurer, continue to be so authorized until December 31, 1995, so long as otherwise qualified therefor and possessing paid-in capital stock, if a stock insurer, or basic capital surplus, if a mutual, reciprocal or Lloyds insurer, not less than that required of the insurer by the laws of this state in force on January 1, 1986; and if a foreign insurer, may so continue to be so authorized, if otherwise qualified therefor, while possessing such capital funds (paid-in capital stock and surplus if a stock insurer, and surplus if a mutual or reciprocal insurer) until December 31, 1990. At the expiration of such period, as applicable, the insurer shall meet the basic capital requirements of this section as set forth in Schedule I of this section in order to maintain its certificate of authority. Upon a change in the control of either a domestic insurer or foreign insurer, the insurer shall, within one year from effective date of such change of control, meet the capital funds requirements of Schedule I of this section as though a newly authorized insurer, but this sentence shall not act to extend the otherwise applicable time period. For the purposes of this subsection, "control" shall have the meaning ascribed in Section 59A-37-2 NMSA 1978.

C. The capital funds required for authority to transact insurance in this state shall be based upon all the kinds of insurance the insurer transacts, wherever transacted or to be transacted.

D. This section shall not apply as to domestic Lloyds plan insurers as identified in Chapter 59A, Article 38 NMSA 1978 except as stated in that article.



E. The capital requirements of this section are set forth in the following schedule:

Schedule I

NEW MEXICO

Minimum Capital, Surplus and Deposit Requirements

Property/Casualty Insurer

	Under \$5	\$5 to \$10	\$10 to \$25	Over \$25	
	Million	Million	Million	Million	
	Number of Kinds of Insurance				
	1	2			
Basic Capital	500,000	600,000	800,000	900,000	1,000,000
Additional Surplus	500,000	600,000	same as	same as	same as
		Under	Under	Under	
		\$5 Million	\$5 Million	\$5 Million	
General Deposit	200,000	300,000	500,000	500,000	500,000
Special Deposit	200,000	300,000	same as	same as	same as
		Under	Under	Under	
		\$5 Million	\$5 Million	\$5 Million	

Life/Health Insurer

	Under \$5	\$5 to \$10	\$10 to \$25	Over \$25
	Million	Million	Million	Million
Basic Capital	600,000	700,000	800,000	900,000
Surplus	400,000	400,000	400,000	400,000

General Deposit	200,000	200,000	200,000	200,000
Special Deposit	200,000	200,000	200,000	200,000

Notes: Premium Volume means the insurer's worldwide direct premiums earned (if Property/Casualty) or received (if Life/Health) during the previous calendar year.

Kinds of insurance pertains to the general kinds of insurance that property/casualty insurers are authorized to transact. The following groups or single kinds of insurance shall be counted as one kind of insurance when calculating the amount of required Basic Capital, Additional Surplus, General Deposit and Special Deposit:

Casualty;

Property; and

Title.

When determining Basic Capital and Additional Surplus amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority Worldwide.

When determining General Deposit and Special Deposit amounts, the kinds of Insurance shall be based on the insurer's actual or requested transaction authority in New Mexico.

"Basic Capital" means paid-in capital stock (if a stock insurer) or basic capital surplus (if a mutual, reciprocal or Lloyds insurer). General Deposit or Special Deposit funds are included within, and are not additional to, required Basic Capital and Additional Surplus. General Deposit amounts shown above are not applicable to alien insurers."

## Chapter 89 Section 2 Laws 2016

SECTION 2. Section 59A-6-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 101, as amended) is amended to read:

"59A-6-1. FEE SCHEDULE.--The superintendent shall collect the following fees:

A. insurer's certificate of authority -

(1) filing application for certificate of authority, and issuance of certificate of authority, including filing of all charter documents, financial statements, service of process, power of attorney, examination reports and other documents included with and part of the application \$1,000.00

(2) annual continuation of certificate of authority, per kind of insurance  
200.00

(3) reinstatement of certificate of authority (Section 59A-5-23 NMSA 1978)  
150.00

(4) amendment to certificate of authority 200.00

B. charter documents - filing amendment to any charter document (as defined in  
Section 59A-5-3 NMSA 1978) 10.00

C. annual statement of insurer, filing 200.00

D. service of process, acceptance by superintendent and issuance of certificate  
of service 10.00

E. producer licenses and appointments -

(1) filing application for original producer license and issuance of license 30.00

(2) biennial continuation of license 60.00

(3) appointment of producer -

(a) filing appointment, per kind of insurance, each insurer 20.00

(b) annual continuation of appointment, per kind of insurance, each insurer 20.00

(4) temporary license filing application 30.00

F. agency business entity license and affiliations -

(1) filing application for original agency business entity license and issuance of  
license 30.00

(2) biennial continuation of license 60.00

(3) filing of individual affiliation 20.00

(4) annual continuation of individual affiliation 20.00

G. insurance vending machine license -

(1) filing application for original license and issuance of license, each machine  
25.00

(2) biennial continuation of license, each machine 50.00

H. examination for license, application for examination conducted directly by the superintendent, each grouping of kinds of insurance to be covered by the examination as provided by the superintendent's rules, and payable as to each instance of

examination 75.00

I. surplus lines insurer - filing application for qualification as eligible surplus lines insurer 1,000.00

J. surplus lines broker license -

(1) filing application for original license and issuance of license 100.00

(2) biennial continuation of license 200.00

K. surplus lines brokerage business entity license and affiliations -

(1) filing application for original surplus lines brokerage business entity license and issuance of license 100.00

(2) filing of individual affiliation 20.00

(3) annual continuation of individual affiliation 20.00

L. adjuster license -

(1) filing application for original license and issuance of license 30.00

(2) biennial continuation of license 60.00

M. insurance consultant license -

(1) filing application for original license and issuance of license 50.00

(2) application examination 75.00

(3) biennial continuation of license 100.00

N. viatical settlements license -

(1) providers -

(a) filing application for original license and issuance of license 1,000.00

(b) biennial continuation of license 400.00

(2) brokers -

(a) filing application for original license and issuance of license 100.00

(b) biennial continuation of license 200.00

(3) brokerages -

(a) filing application for original business entity license and issuance of license  
100.00

(b) biennial continuation of license 200.00

(c) filing of individual affiliation 20.00

(d) annual continuation of individual affiliation 20.00

O. advisory organization license -

(1) filing application for license and issuance of license 100.00

(2) annual continuation of license 100.00

P. nonprofit health care plans -

(1) filing application for preliminary permit and issuance of permit 100.00

(2) certificate of authority, application, issuance, continuation, reinstatement,  
charter documents - same as for insurers

(3) annual statement, filing 200.00

Q. prepaid dental plans -

(1) certificate of authority, application, issuance, continuation,  
reinstatement, charter documents - same as for insurers

(2) annual report, filing 200.00

R. prearranged funeral insurance - application for certificate of authority,  
issuance, continuation, reinstatement, charter documents, filing annual statement,  
licensing of sales representatives - same as for insurers

S. premium finance companies -

(1) filing application for original license and issuance of license 100.00

(2) annual renewal of license 100.00

T. motor clubs -

(1) certificate of authority -

(a) filing application for original certificate of authority and issuance of certificate of authority 200.00

(b) annual continuation of certificate of authority 100.00

(2) sales representatives -

(a) filing application for registration or license and issuance of registration or license, each

representative 30.00

(b) biennial continuation of registration or license, each representative 60.00

U. bail bondsmen -

(1) filing application for original license as bail bondsman or solicitor, and issuance of license 30.00

(2) examination for license, each instance of examination 50.00

(3) biennial continuation of license 60.00

V. required filing of forms or rates - by all lines of business other than property or casualty -

(1) rates 50.00

(2) major form - each new policy and each package submission, which can include multiple policy forms, application forms, rider forms, endorsement forms or amendment forms 30.00

(3) incidental forms and rates - forms filed for informational purposes; riders, applications, endorsements and amendments filed individually; rate service organization reference filings; rates filed for informational purposes 15.00

W. health maintenance organizations -

- (1) filing an application for a certificate of authority 1,000.00
- (2) annual continuation of certificate of authority 200.00
- (3) filing each annual report 200.00
- (4) filing an amendment to organizational documents requiring approval  
200.00
- (5) filing informational amendments 50.00

X. purchasing groups and foreign risk retention groups -

- (1) original registration 500.00
- (2) annual continuation of registration 200.00
- (3) producer fees - same as for authorized insurers

Y. third party administrators -

- (1) filing application for original business entity insurance administrator license  
100.00
- (2) biennial continuation or renewal of license 200.00
- (3) examination for license, each examination 75.00
- (4) filing of annual report 50.00

Z. miscellaneous fees -

- (1) duplicate license 30.00
- (2) name change 30.00
- (3) for each signature and seal of superintendent affixed to any instrument  
10.00

AA. pharmacy benefits managers -

- (1) filing an application for a license 1,000.00
- (2) annual continuation of license, each year continued 500.00
- (3) filing each annual report 200.00

(4) filing an amendment to organizational documents requiring approval  
200.00

(5) filing informational amendments 100.00

BB. independent review organizations

(1) filing an application for a license 250.00

(2) biennial continuation of license 100.00

CC. continuing education providers

(1) filing an application for a course of instruction 80.00

(2) biennial continuation of course of instruction 40.00.

An insurer shall be subject to additional fees or charges, termed retaliatory or reciprocal requirements, whenever form or rate-filing fees in excess of those imposed by state law are charged to insurers in New Mexico doing business in another state or whenever a condition precedent to the right to issue policies in another state is imposed by the laws of that state over and above the conditions imposed upon insurers by the laws of New Mexico; in those cases, the same form or rate-filing fees may be imposed upon an insurer from another state transacting or applying to transact business in New Mexico so long as the higher fees remain in force in the other state. If an insurer does not comply with the additional retaliatory or reciprocal requirement charges imposed under this subsection, the superintendent may refuse to grant or may withdraw approval of the tendered form or rate filing.

All fees are earned when paid and are not refundable."

## **Chapter 89 Section 3 Laws 2016**

SECTION 3. Section 59A-6-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 106, as amended) is amended to read:

"59A-6-6. PREEMPTION AND IN LIEU PROVISION.--The state government of New Mexico preempts the field of taxation of insurers, nonprofit health care plans, health maintenance organizations, prepaid dental plans, prearranged funeral plans and insurance producers as such, and payment of the taxes, licenses and fees provided for in the Insurance Code shall be in lieu of all other taxes, licenses and fees of every kind now or hereafter imposed by this state or any political subdivision thereof on any of the foregoing specified entities, excepting the regular state, county and city taxes on property located in New Mexico and excepting the income tax on insurance producers. No provision of law enacted after January 1, 1985 shall be deemed to modify this provision except by express reference to this section."



## **Chapter 89 Section 4 Laws 2016**

SECTION 4. Section 59A-7-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 107) is amended to read:

"59A-7-1. DEFINITIONS NOT MUTUALLY EXCLUSIVE--INSURING POWERS--CLASSIFICATION OF INSURERS.--

A. It is intended that certain insurance coverages may come within more than one "kind" of insurance as defined in Chapter 59A, Article 7 NMSA 1978, and inclusion of such coverage within one definition shall not exclude it as to any other kind of insurance within the definition of which the coverage is likewise reasonably includable.

B. No insurer shall be authorized to transact any kind or kinds of insurance other than those defined in Chapter 59A, Article 7 NMSA 1978. Insurers shall be classified as to insuring powers according to kind or kinds of insurance for which so authorized.

C. An insurer may apply to engage in insurance activities in one or more of the following lines of insurance:

- (1) life and annuities;
- (2) accident and health;
- (3) property;
- (4) casualty; and
- (5) variable life and annuity."

## **Chapter 89 Section 5 Laws 2016**

SECTION 5. Section 59A-7-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 108, as amended) is repealed and a new Section 59A-7-2 NMSA 1978 is enacted to read:

"59A-7-2. LIFE AND ANNUITY.--Life and annuity includes:

- A. fixed annuity;
- B. immediate annuity;
- C. deferred annuity;

- D. equity-indexed annuity;
- E. endowment;
- F. term life;
- G. universal life;
- H. whole life;
- I. credit life; and
- J. similar products relating to life and annuity matters."

## **Chapter 89 Section 6 Laws 2016**

SECTION 6. Section 59A-7-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 109, as amended) is repealed and a new Section 59A-7-3 NMSA 1978 is enacted to read:

"59A-7-3. ACCIDENT AND HEALTH INSURANCE.--Accident and health includes:

- A. accident;
- B. accidental death and dismemberment;
- C. blanket accident and sickness;
- D. credit disability;
- E. critical illness;
- F. dental;
- G. disability income;
- H. excess or stop loss;
- I. home health care;
- J. hospital indemnity;
- K. long-term care;
- L. major medical;

- M. medical expense;
- N. medicare supplement;
- O. prescription drug;
- P. sickness;
- Q. specified disease;
- R. vision; and
- S. similar products relating to accident and health matters."

## **Chapter 89 Section 7 Laws 2016**

SECTION 7. Section 59A-7-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 110) is repealed and a new Section 59A-7-4 NMSA 1978 is enacted to read:

"59A-7-4. PROPERTY.--Property includes:

- A. aircraft cargo;
- B. aircraft hull;
- C. auto commercial physical damage;
- D. baggage;
- E. builders risk;
- F. business owners;
- G. cargo;
- H. commercial inland marine;
- I. commercial multi-peril;
- J. commercial property;
- K. crop;
- L. crop hail;
- M. difference in conditions;

- N. dwelling;
- O. earthquake;
- P. event cancellation;
- Q. extended coverages;
- R. farm and ranch property;
- S. fire and allied lines;
- T. flood;
- U. garage;
- V. marine cargo;
- W. marine hull;
- X. ocean marine;
- Y. personal inland marine;
- Z. personal property;
- AA. pet insurance;
- BB. travel coverage; and
- CC. similar products relating to property matters."

## **Chapter 89 Section 8 Laws 2016**

SECTION 8. Section 59A-7-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 112) is repealed and a new Section 59A-7-6 NMSA 1978 is enacted to read:

"59A-7-6. CASUALTY.--Casualty includes:

- A. aircraft liability;
- B. auto commercial liability;
- C. auto private passenger liability;
- D. auto warranty contract;

- E. boiler and machinery;
- F. burglary and theft;
- G. collateral protection;
- H. commercial excess/umbrella liability;
- I. commercial general liability;
- J. congenital defects;
- K. contractual liability;
- L. credit;
- M. credit property;
- N. creditor-placed dual/single interest;
- O. crime;
- P. directors and officers liability;
- Q. employers liability;
- R. elevator;
- S. entertainment;
- T. errors and omissions;
- U. failure to file instrument;
- V. farm and ranch liability;
- W. fidelity bonds;
- X. fidelity insurance;
- Y. financial guaranty;
- Z. gap;
- AA. garage liability;

BB. glass;

CC. involuntary unemployment;

DD. kidnap and ransom;

EE. leakage and fire-extinguishing equipment;

FF. legal liability;

GG. liquor liability;

HH. livestock;

II. mechanical breakdown;

JJ. medical malpractice;

KK. mobile homes under transport;

LL. money and securities;

MM. motor club service contracts;

NN. mortgage guaranty;

OO. personal excess/umbrella liability;

PP. personal effects;

QQ. personal liability;

RR. personal property floater;

SS. pollution liability;

TT. premises and operations;

UU. product liability;

VV. products and completed operations;

WW. professional liability;

XX. owners and contractors;

- YY. stop loss liability;
- ZZ. surety;
- AAA. title;
- BBB. vandalism and malicious mischief;
- CCC. workers' compensation; and
- DDD. similar products relating to casualty matters."

## **Chapter 89 Section 9 Laws 2016**

SECTION 9. Section 59A-7-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 113) is repealed and a new Section 59A-7-7 NMSA 1978 is enacted to read:

"59A-7-7. VARIABLE LIFE AND ANNUITY.--Variable life and annuity includes:

- A. variable deferred annuity;
- B. variable immediate annuity;
- C. variable life; and
- D. similar products relating to variable life and annuity matters."

## **Chapter 89 Section 10 Laws 2016**

SECTION 10. Section 59A-9-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 145, as amended) is amended to read:

"59A-9-12. INVESTMENTS IN SUBSIDIARIES.--

A. An insurer either by itself or in cooperation with one or more other business entities, may organize or acquire one or more subsidiaries engaged or to be engaged in any of the following businesses:

- (1) an insurance business authorized by the jurisdiction in which the subsidiary is incorporated;
- (2) acting as insurance producer for its parent or for any of its parent's insurer subsidiaries;
- (3) investing, reinvesting or trading in securities for its own account, that of its parent, any subsidiary of its parent or any affiliate or subsidiary;

(4) management of any investment company registered pursuant to the federal Investment Company Act of 1940, as amended, including related sales and services;

(5) acting as a broker-dealer registered pursuant to the federal Securities Exchange Act of 1934, as amended;

(6) rendering investment advice to governments, government agencies, corporations or other organizations or groups;

(7) rendering other services related to operations of an insurance business;

(8) owning and managing assets that the parent corporation could itself own or manage;

(9) acting as administrative agent for a government instrumentality that is performing an insurance function; or

(10) financing insurance premiums, agents and other forms of consumer financing; and

(11) any other business activity determined by the superintendent to be reasonably ancillary to an insurance business.

B. In addition to investments in common stock, preferred stock, debt obligations and other securities permitted under all other sections of Chapter 59A, Article 9 NMSA 1978 an insurer may also:

(1) invest, in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, amounts which unless otherwise approved by the superintendent do not exceed the lesser of ten percent of the insurer's assets or fifty percent of the insurer's surplus as regards policyholders, if, after the investments, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of the investments, there shall be included:

(a) total net money or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of the subsidiary, whether or not represented by the purchase of capital stock or the issuance of other securities; and

(b) all amounts expended in acquiring additional common stock, preferred stock, debt obligations and other securities and all contributions to the capital and surplus of a subsidiary subsequent to its acquisition or formation;



(2) if the insurer's total liabilities, as calculated for annual statement purposes, are less than ten percent of assets, invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, if, after the investment, the insurer's surplus as regards policyholders, considering the investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(3) invest any amount in common stock, preferred stock, debt obligations and other securities of one or more subsidiaries, if each subsidiary agrees to limit its investments in any asset so that the investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in Paragraph (1) of this subsection or in Chapter 59A, Article 9 NMSA 1978, applicable to the insurer. For the purpose of this paragraph "the total investment of the insurer" includes:

(a) any direct investment by the insurer in an asset; and

(b) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of the subsidiary;

(4) with the approval of the superintendent, invest any amount in common stock, preferred stock, debt obligations or other securities of one or more subsidiaries, if, after the investment, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs; and

(5) invest any amount in the common stock, preferred stock, debt obligations or other securities of any subsidiary exclusively engaged in holding title to, or holding title to and managing or developing, real or personal property, if, after considering as a disallowed asset so much of the investment as is represented by subsidiary assets, which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs, and if, following such investment, all voting securities of such subsidiary would be owned by the insurer.

C. Investments in common stock, preferred stock, debt obligations or other securities of subsidiaries made pursuant to Subsection B of this section shall not be subject to any of the otherwise applicable restrictions or prohibitions contained in this article applicable to the investments of the insurer.

D. Whether any investment made pursuant to Subsection B of this section meets the applicable requirements thereof is to be determined immediately after the investment is made, taking into account the then outstanding balance on all previous

investments in debt obligations and the value of all previous equity securities as of the date they were made.

E. If an insurer ceases to control a subsidiary, it shall dispose of any investment made in it pursuant to this section within three years from time of the cessation of control or within such further time as the superintendent may prescribe, unless at any time after the investment is made, the investments meet the requirements for investment under any other section of the Insurance Code, and the insurer has so notified the superintendent."

## **Chapter 89 Section 11 Laws 2016**

SECTION 11. Section 59A-11-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 180) is amended to read:

"59A-11-1. SCOPE OF ARTICLE.--

A. Chapter 59A, Article 11 NMSA 1978 provides procedures for licensing insurance producers, surplus line brokers and adjusters; agents of prepaid dental plans; agents of nonprofit health care plans; bail bondsmen and their solicitors; registration of motor club representatives; licensing of insurance securities salespersons; and applications for, qualifying examinations, and issuance of, duration, continuation, and termination of all such licenses and registrations. For the purposes of that article, all such licenses and registrations are referred to as "licenses".

B. Chapter 59A, Article 11 NMSA 1978 shall also apply to all additional categories of persons operating in insurance fields and related fields as administrators, consultants, appraisers, or in whatever similar capacity, under laws now or hereafter enacted, the licensing and supervision of whom is delegated to the superintendent.

C. Definitions, requirement of licenses, qualifications for license, and other requirements and provisions as to insurance producers, adjusters, bail bondsmen and their solicitors, motor club representatives, and other categories referred to in Subsection B of this section, shall be as provided in subsequent articles in the Insurance Code now or hereafter respectively dealing with such categories; provided that "insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance."

## **Chapter 89 Section 12 Laws 2016**

SECTION 12. Section 59A-11-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 183) is amended to read:

"59A-11-4. TEMPORARY LICENSES.--

A. Where temporary license is otherwise provided for in the Insurance Code as to a particular category of licensee, application therefor shall be made in the same manner as applies to permanent license under Chapter 59A, Article 11 NMSA 1978 with such modification therein as the superintendent may prescribe, and without payment of examination fee.

B. The superintendent may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if the superintendent deems that the temporary license is necessary for the servicing of an insurance business in accordance with the Insurance Code."

## **Chapter 89 Section 13 Laws 2016**

SECTION 13. Section 59A-11-6 NMSA 1978 (being Laws 1984, Chapter 127, Section 185) is amended to read:

"59A-11-6. EXAMINATION OF APPLICANT.--Where an applicant for a license is required to take and pass an examination prior to issuance of a license, the examination shall be subject to the following provisions:

A. the examination shall be made available to applicants for particular licenses at least once each month at places within New Mexico designated by the superintendent;

B. the examination shall require answers of the applicant to questions asked. If the applicant requests, the examination shall be administered in the Spanish language;

C. all examinations shall be conducted and graded in a fair and impartial manner and without unfair discrimination as between individuals examined;

D. a grade of not less than seventy is a passing grade;

E. an individual who has failed to pass an examination may take another examination at any subsequent scheduled examination date, except that an individual who has taken and failed to pass four of the same examinations shall not be entitled to take another examination until after six months after the date of the last examination failed;

F. an examination application fee, in the amount stated in Section 59A-6-1 NMSA 1978, or as provided for under Subsection H of this section, shall be paid for each examination;

G. the superintendent may cause to be prepared and made available to applicants a manual showing the general type and scope of the examination for any license for which examination is required;

H. the superintendent may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978;

I. examinations shall be developed and conducted under rules promulgated by the superintendent;

J. each individual applying for an examination shall submit a nonrefundable fee as prescribed by the superintendent as set forth in Section 59A-6-1 NMSA 1978;

K. an individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination; and

L. a resident individual applying for an insurance producer license shall pass a written examination unless exempt pursuant to Section 59A-12-16 NMSA 1978. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state."

## **Chapter 89 Section 14 Laws 2016**

SECTION 14. Section 59A-11-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 187, as amended) is amended to read:

"59A-11-8. ISSUANCE OR REFUSAL TO ISSUE OR RENEW LICENSE.--

A. If the superintendent finds that the application is complete, that the applicant has passed all required examinations and is otherwise qualified for the license applied for, the superintendent shall promptly issue, or permit the issuance of, the license.

B. If the superintendent denies an application for initial issuance or renewal of a license, the superintendent shall notify the applicant in writing and advise the applicant of the reason for the denial.

C. Within thirty days of the date of issuance of the denial of an application for initial issuance or renewal of a license, the applicant may request in writing a hearing on the denial. The hearing shall be held within thirty days and shall be held pursuant to the requirements of the Insurance Code.

D. The license of a business entity may be suspended, revoked or refused if the superintendent finds after hearing that an individual licensee's violation was known or should have been known by one or more of the partners, officers or managers acting

on behalf of the partnership or corporation and the violation was neither reported to the superintendent nor corrective action taken."

## **Chapter 89 Section 15 Laws 2016**

SECTION 15. Section 59A-11-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 188) is amended to read:

"59A-11-9. LICENSE CONTENTS--NUMBER REQUIRED.--

A. The license issued by the superintendent under Chapter 59A, Article 11 NMSA 1978 shall contain the licensee's name, business address, personal identification number, date of issue, lines of authority, expiration date and any other information the superintendent requires.

B. The license of an insurance producer shall not specify the name of any particular insurer or underwriter's department by which the licensee is appointed, and the licensee may represent as agent under the one license as many insurers or underwriter's departments as may appoint the licensee as agent under the Insurance Code subject to Section 59A-11-13 NMSA 1978 as to certain life or health insurance producers having unsettled debit balances with an insurer previously represented.

C. The license of a business entity shall also record the name of each individual authorized to exercise the license powers. The superintendent may require the names of each individual to be registered with the office of superintendent of insurance."

## **Chapter 89 Section 16 Laws 2016**

SECTION 16. Section 59A-11-10 NMSA 1978 (being Laws 1984, Chapter 127, Section 189, as amended) is amended to read:

"59A-11-10. CONTINUATION, EXPIRATION OF LICENSE.--

A. The term of the license shall be perpetual, contingent upon payment of fees and completion of any continuing education requirements.

B. Individual licenses shall renew and continue on a biennial basis on the last day of the licensee's month of birth. Business entity licenses shall renew and continue on a biennial basis on March 1 of the biennial year; except for those types of business entity licenses that, pursuant to Section 59A-6-1 NMSA 1978, renew and continue on an annual basis, in which case those licenses shall renew and continue on March 1 of every year. Business entity affiliations shall renew and continue on an annual basis on March 1 of every year.

C. Any license referred to in this section that is not so continued shall be deemed to have terminated as of midnight on the last day of the licensee's month of birth if an individual license and as of midnight of March 1 if a business entity license; except that the superintendent may effectuate a request for continuation received within thirty days thereafter if accompanied by a continuation fee equal to one hundred fifty percent of the continuation fee otherwise required.

D. If the superintendent has reason to believe that the competence of any licensee, or individual designated to exercise license powers, is questionable, the superintendent may require as condition of continuation of the license or license powers that the licensee or individual take and pass a written examination as required under the Insurance Code of new individual applicants for the same license.

E. This section shall not apply as to temporary licenses, which shall be for such duration and subject to extension as provided in the respective sections of the Insurance Code by which such licenses are authorized.

F. All licenses and appointments of an insurer or other principal that ceases to be authorized to transact business in this state shall automatically terminate without notice as of date of such cessation.

G. A license shall terminate upon death of the licensee, if an individual, or dissolution, if a corporation, or change in partners, if a partnership; provided that, in the case of a partnership, the license may be continued for a reasonable period while application for new license is being made or pending, as provided by rule."

## **Chapter 89 Section 17 Laws 2016**

SECTION 17. Section 59A-11-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 191) is amended to read:

### **"59A-11-12. APPOINTMENT OF INSURANCE PRODUCER--CONTINUATION.--**

A. An insurance producer shall not act as an agent of an insurer unless the insurance producer becomes an appointed insurance producer of that insurer. An insurance producer who is not acting as an agent of an insurer is not required to become appointed.

B. To appoint an insurance producer as its agent, the appointing insurer shall file in a format approved by the superintendent a notice of appointment within fifteen days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint an insurance producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request.

C. Upon receipt of the notice of appointment, the superintendent shall verify within a reasonable time not to exceed thirty days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the superintendent shall notify the insurer within five days of its determination.

D. An insurer shall pay a filing appointment fee in the amount and method of payment set forth in Section 59A-6-1 NMSA 1978 for each insurance producer appointed by the insurer.

E. An insurer shall remit in a manner prescribed by the superintendent a continuation of appointment fee in the amount set forth in Section 59A-6-1 NMSA 1978.

F. Appointments shall be continuous subject to payment of any applicable fees. Fees shall be calculated as of a date certain."

## **Chapter 89 Section 18 Laws 2016**

SECTION 18. Section 59A-11-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 192, as amended) is amended to read:

"59A-11-13. INSURANCE PRODUCERS' RIGHTS--CANCELLATION.--

A. No insurer shall terminate a contract appointing an individual as an independent insurance producer without giving the insurance producer written notice of the termination, including the specific reason for such action, at least one hundred eighty days prior to the termination.

B. Notwithstanding the provisions of Subsection A of this section, no insurer may cancel a written agreement with an insurance producer with respect to property or casualty insurance because of an adverse loss-ratio experience on that insurance producer's book of business during any three full consecutive calendar years if:

(1) the insurer required the insurance producer to submit the application for underwriting approval, all material information on the application was fully completed and the insurance producer had not omitted or altered any information provided by the applicant; or

(2) the insurer accepted without prior approval policies issued by the insurance producer, if all material information on the application or on the insurer's copy of any policy issued by the insurance producer was fully completed and the insurance producer had not omitted or altered any information provided by the applicant.

C. The provisions of Subsection A or B of this section shall not apply to termination of a contract for insolvency, abandonment, gross or willful misconduct, failure to pay over to the company money due to the company under existing agency or company contract after receipt of a written demand therefor, fraud or intentional misrepresentation by the insurance producer, either to the insurer or to an insured, or after the insurance producer's license is revoked or otherwise terminated by the superintendent.

D. For one year following termination for any reason other than those set forth in Subsection C of this section, the insurance producer may renew, for a term of one year, any policies of the insurer in force at termination if the insureds meet current underwriting standards. The insurance producer shall earn a commission for such renewals at a rate not less than the rate in effect prior to termination.

E. For the purposes of this section:

(1) "independent insurance producer" means an insurance producer that is not an employee of an insurer and represents more than one insurer;

(2) "one insurer" includes any group of insurance companies under substantially the same management and control;

(3) "insurer" means any insurance company authorized to transact property or casualty insurance business in this state; and

(4) "policies" means all kinds of insurance, except life, health, annuities and credit life and health.

F. An individual who has suffered damages as a result of a violation of this section is granted a right to bring an action in district court to recover damages, including reasonable costs and attorney fees, if approved by the court.

G. An insurer or authorized representative of the insurer that terminates the appointment, employment contract or other insurance business relationship with an insurance producer shall notify the superintendent within thirty days following the effective date of the termination in the format prescribed by the superintendent, if the reason for termination is one of the reasons set forth in Section 59A-11-14 NMSA 1978 or the insurer has knowledge that the insurance producer was found by a court, government body or self-regulatory organization authorized by law to have engaged in any of the activities in Section 59A-11-14 NMSA 1978. Upon the written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination or activity of the insurance producer.

H. An insurer or authorized representative of the insurer that terminates the appointment, employment or contract with an insurance producer for any reason not set forth in Section 59A-11-14 NMSA 1978 shall notify the superintendent within thirty



days following the effective date of the termination, in the format prescribed by the superintendent. Upon written request of the superintendent, the insurer shall provide additional information, documents, records or other data pertaining to the termination.

I. The insurer or the authorized representative of the insurer shall promptly notify the superintendent in the format prescribed by the superintendent if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the superintendent in accordance with Subsection G of this section had the insurer then known of its existence.

J. The insurer shall provide a copy of the notification of termination or cancellation to the insurance producer.

(1) Within fifteen days after making the notification required by Subsections G, H and I of this section, the insurer shall mail a copy of the notification to the insurance producer at the insurance producer's last known address. If the insurance producer is terminated for any of the reasons listed in Section 59A-11-14 NMSA 1978, the insurer shall provide a copy of the notification to the insurance producer at the insurance producer's last known address by certified mail, return receipt requested, postage prepaid or by overnight delivery using a nationally recognized carrier.

(2) Within thirty days after the insurance producer has received the original or additional notification of termination, the insurance producer may file written comments concerning the substance of the notification with the superintendent. The insurance producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the superintendent's file and accompany every copy of a report distributed or disclosed for any reason about the insurance producer subject to the conditions provided in Subsection K of this section.

K. The documents and materials related to termination or cancellation of an insurance producer's appointment shall be deemed confidential as follows:

(1) any documents, materials or other information in the control or possession of the office of superintendent of insurance that is furnished by an insurer, insurance producer or an employee or agent thereof acting on behalf of the insurer or insurance producer, or obtained by the superintendent in an investigation pursuant to this section, shall be confidential and shall not be subject to the Inspection of Public Records Act. Nothing in this section shall be construed as a grant of privilege or confidentiality or a bar to production of that information by an insurer or the insurance producer in a civil suit, whether or not the superintendent is a party; provided that the superintendent may use the documents, materials or other information in a regulatory or legal action brought in the course of the superintendent's official duties. The documents, materials or other information shall not be made public by the superintendent or any other person, except to insurance departments of other states, unless the superintendent determines that the interests of the policyholders, shareholders or public

will be served by the publication of them, in which case the superintendent may publish all or any part of them in the manner the superintendent deems appropriate;

(2) in order to assist in the performance of the superintendent's duties, the superintendent may:

(a) share documents, materials or other information, including the confidential documents, materials or information subject to this section, with other state, federal and international regulatory agencies, with the national association of insurance commissioners, its affiliates or subsidiaries and with state, federal and international law enforcement authorities; provided that the recipient agrees to maintain the confidentiality of the documents, materials or other information;

(b) receive documents, materials or information, including otherwise confidential documents, materials or information from the national association of insurance commissioners, its affiliates or subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material or information; and

(c) enter into agreements governing sharing and use of information consistent with this subsection. The language in this subsection assumes the recipient has the authority to protect the applicable confidentiality or privilege, but does not address the verification of that authority that would presumably occur in the context of a broader information-sharing agreement;

(3) no waiver of any privilege or claim of confidentiality in the documents, materials or information shall occur as a result of disclosure to the superintendent under this section or as a result of sharing as authorized in this section; and

(4) nothing in this subsection shall prohibit the superintendent from releasing final adjudicated actions, including for-cause terminations that are open to public inspection pursuant to the Inspection of Public Records Act, to a database or other clearinghouse service maintained by the national association of insurance commissioners, its affiliates or subsidiaries of the national association of insurance commissioners.

L. An insurer, the authorized representative of the insurer or insurance producer that fails to report as required under the provisions of this section or that is found by a court of competent jurisdiction to have reported with actual malice may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with the Insurance Code."

## **Chapter 89 Section 19 Laws 2016**

SECTION 19. Section 59A-11-14 NMSA 1978 (being Laws 1984, Chapter 127, Section 193, as amended) is amended to read:

"59A-11-14. SUSPENSION, REVOCATION, REFUSAL TO CONTINUE LICENSE--GROUNDS.--

A. In addition to a reason provided under other provisions of the Insurance Code as to particular licenses, the superintendent may place on probation, suspend, revoke or refuse to issue or renew a license issued under Chapter 59A, Article 11 NMSA 1978 for any of the following reasons:

(1) providing incorrect, misleading, incomplete or materially untrue information in the license application;

(2) violating any insurance law or violating any regulation, subpoena or order of the superintendent or of another state's superintendent or commissioner of insurance;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating or converting any money or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony;

(7) having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) using fraudulent, coercive or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere;

(9) having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;

(10) forging another's name to an application for insurance or to any document related to an insurance transaction;

(11) improperly using notes or any other reference material to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax;

(15) any cause for which issuance of the license could have been refused had it then existed and been known to the superintendent;

(16) failure to pass an examination required by the superintendent, subsequent to issue of license, under Subsection D of Section 59A-11-10 NMSA 1978;

(17) aiding, abetting or assisting another person to violate a provision of the Insurance Code; or

(18) the interests of the insureds or the public are not being properly served under the license.

B. The superintendent may require a criminal history background investigation of an applicant or a current license holder by means of fingerprint checks by the department of public safety and the federal bureau of investigation, at the expense of the applicant or license holder, using the applicant's or license holder's fingerprints or other identifying information. The information shall be used by the superintendent solely in determining whether to suspend, revoke or refuse to continue a license."

## **Chapter 89 Section 20 Laws 2016**

SECTION 20. Section 59A-11-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 194) is repealed and a new Section 59A-11-15 NMSA 1978 is enacted to read:

"59A-11-15. PROCEDURE FOR SUSPENSION, REVOCATION OR REFUSAL TO CONTINUE LICENSE.--

A. If the superintendent denies an initial or renewal application for a license, the superintendent shall notify the applicant in writing and advise the applicant of the reason for the denial or non-renewal of the application. Within thirty days of the date of issuance of the denial of application for initial issuance or renewal of a license, the applicant may request in writing a hearing on the denial. The hearing shall be held within ninety days and shall be held otherwise pursuant to Section 59A-4-15 NMSA 1978.

B. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after hearing, be subject to an administrative fine according to Section 59A-1-18 NMSA 1978.

C. The superintendent shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this section against any person who is under investigation for or charged with a violation of this section even if the person's license or registration has been surrendered or has lapsed by operation of law.

D. The state shall participate in the national association of insurance commissioners attachment warehouse personal information capture system alerts or another appropriate mechanism to monitor actions against existing licensees and take necessary action, when warranted based on the information obtained through such notifications."

## **Chapter 89 Section 21 Laws 2016**

SECTION 21. A new section of Chapter 59A, Article 11 NMSA 1978 is enacted to read:

"DUTY TO REPORT.--

A. A licensee shall report to the superintendent any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this state within thirty days of the final disposition of the matter. The report shall include a copy of the order, consent to order or other relevant legal documents.

B. Within thirty days of the initial pretrial hearing date, a licensee shall report to the superintendent any criminal prosecution of the licensee taken in any jurisdiction. The report shall include a copy of the initial complaint filed, the order resulting from the hearing and any other relevant legal documents."

## **Chapter 89 Section 22 Laws 2016**

SECTION 22. A new section of Chapter 59A, Article 11 NMSA 1978 is enacted to read:

"RECIPROCITY.--

A. The superintendent shall waive any requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by Section 23 of this 2016 act, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

B. A nonresident licensee's satisfaction of the nonresident licensee's home state's continuing education requirements shall constitute satisfaction of the

continuing education requirements if the nonresident licensee's home state recognizes the satisfaction of its continuing education requirements imposed upon licensees from New Mexico on the same basis."

## **Chapter 89 Section 23 Laws 2016**

SECTION 23. A new section of Chapter 59A, Article 11 NMSA 1978 is enacted to read:

### **"NONRESIDENT LICENSE--REQUIREMENTS.--**

A. Unless denied a license pursuant to Section 59A-11-14 NMSA 1978, a nonresident person shall receive a nonresident license if:

(1) the person is currently licensed as a resident in good standing in the person's home state;

(2) the person has submitted the proper request for licensure and has paid the fees required by Section 59A-6-1 NMSA 1978;

(3) the person has submitted or transmitted to the superintendent the application for licensure that the person submitted to the person's home state or a completed uniform application; and

(4) the person's home state awards nonresident licenses to residents of this state on the same basis.

B. The superintendent may verify an applicant's insurance producer licensing status through the insurance producer database maintained by the national association of insurance commissioners, its affiliates or subsidiaries.

C. A nonresident licensee who moves from one state to another state or a resident licensee who moves from this state to another state shall file a change of address and provide certification from the new resident state within thirty days of the change of legal residence.

D. Notwithstanding any other provision of this section, a person licensed as a surplus lines producer in the person's home state shall receive a nonresident surplus lines producer license pursuant to Subsection A of this section. Except as provided in Subsection A of this section, nothing in this section otherwise amends or supersedes any provision of Chapter 59A, Article 14 NMSA 1978.

E. Notwithstanding any other provision of this section, a person licensed as a limited lines credit insurance or other type of limited lines producer in the person's home state shall receive a nonresident limited lines producer license, pursuant to Subsection A of this section, granting the same scope of authority as granted under the

license issued by the producer's home state. For the purposes of this subsection, limited lines insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to Subsection C of Section 59A-7-1 NMSA 1978."

## **Chapter 89 Section 24 Laws 2016**

SECTION 24. Section 59A-11A-7 NMSA 1978 (being Laws 1989, Chapter 97, Section 7) is amended to read:

"59A-11A-7. PAYMENT FROM INSURERS OR INSURANCE PRODUCERS FOR SALE OF INSURANCE PROHIBITED--PENALTY.--

A. No insurance consultant serving any person, firm, association, organization or corporation not engaged in the insurance business, for compensation paid or to be paid by the person served, shall directly or indirectly receive any part of any commission or compensation paid by any insurer or insurance producer of any insurer in connection with the sale or writing of any insurance that is within the subject matter of any such service.

B. Any person who violates any provision of Subsection A of this section is guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars (\$500) or by imprisonment in the county jail for a definite term of not less than thirty days or more than ninety days or both."

## **Chapter 89 Section 25 Laws 2016**

SECTION 25. Section 59A-12-1 NMSA 1978 (being Laws 1984, Chapter 127, Section 201) is amended to read:

"59A-12-1. PURPOSE AND SCOPE OF ARTICLE.--Chapter 59A, Article 12 NMSA 1978, in conjunction with Chapter 59A, Article 11 NMSA 1978, governs the qualifications and procedures for the licensing of insurance producers. Chapter 59A, Article 12 NMSA 1978 does not apply to surplus lines brokers that are licensed pursuant to Chapter 59A, Article 14 NMSA 1978 and that sell, solicit or negotiate insurance in this state solely for placement with eligible surplus lines insurers, except as provided in Sections 22 and 23 of this 2016 act."

## **Chapter 89 Section 26 Laws 2016**

SECTION 26. Section 59A-12-2 NMSA 1978 (being Laws 1984, Chapter 127, Section 202) is repealed and a new Section 59A-12-2 NMSA 1978 is enacted to read:

"59A-12-2. DEFINITIONS.--As used in Chapter 59A, Article 12 NMSA 1978:

A. "affiliate" means a person that controls, is controlled by or is under common control with the insurance producer;

B. "business entity" means a corporation, association, partnership, limited liability company, limited liability partnership or other legal entity;

C. "home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the insurance producer's principal place of residence or principal place of business and is licensed to act as an insurance producer;

D. "insurance" means any of the lines of authority in Chapter 59A, Article 7 NMSA 1978;

E. "insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate insurance;

F. "insurer" means every person engaged as principal and as indemnitor, surety or contractor in the business of entering into contracts of insurance;

G. "license" means a document issued by the superintendent authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent or inherent, in the holder to represent or commit an insurance carrier;

H. "limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation;

I. "limited line credit insurance producer" means a person who sells, solicits or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group or individual policy;

J. "limited lines insurance" means those lines of insurance referred to in Section 59A-12-18 NMSA 1978 or any other line of insurance that the superintendent deems necessary to recognize for the purposes of complying with Subsection E of Section 23 of this 2016 act;

K. "limited lines producer" means a person authorized by the superintendent to sell, solicit or negotiate limited lines insurance;

L. "negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract; provided



that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers;

M. "sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurer;

N. "solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular insurer;

O. "terminate" means to cancel the relationship between an insurance producer and the insurer or to terminate an insurance producer's authority to transact insurance;

P. "uniform application" means the current version of the national association of insurance commissioners uniform application for resident and nonresident insurance producer licensing; and

Q. "uniform business entity application" means the current version of the national association of insurance commissioners uniform business entity application for resident and nonresident business entities."

## **Chapter 89 Section 27 Laws 2016**

SECTION 27. Section 59A-12-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 203) is amended to read:

"59A-12-3. "BROKER" AND "SERVICE REPRESENTATIVE" DEFINED.--For the purpose of the Insurance Code:

A. a "broker" is a type of insurance producer who, not being an agent of the insurer, as an independent contractor and on behalf of the insured solicits, negotiates or procures insurance or annuity contracts or renewal or continuation thereof for insureds or prospective insureds other than the broker. "Broker" does not include a surplus line broker, as defined in Chapter 59A, Article 14 NMSA 1978; and

B. "service representative" means an individual, regularly employed on salary by an insurer, group of insurers or managing general agent, who assists insurance producers in soliciting, negotiating and effectuating insurance for such insurer, group or managing general agent and, in conduct of their business, receives no part of the commission on insurance written. A service representative is not required to be licensed, nor shall the service representative independently solicit or negotiate insurance or annuity contracts."

## **Chapter 89 Section 28 Laws 2016**

SECTION 28. Section 59A-12-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 205, as amended by Laws 1999, Chapter 272, Section 5 and also by Laws 1999, Chapter 289, Section 6) is amended to read:

"59A-12-4. LICENSE REQUIRED.--A person shall not sell, solicit or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of insurance in accordance with the Insurance Code."

## **Chapter 89 Section 29 Laws 2016**

SECTION 29. Section 59A-12-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 208) is repealed and a new Section 59A-12-7 NMSA 1978 is enacted to read:

"59A-12-7. EXEMPTIONS FROM LICENSE REQUIREMENTS.--

A. Nothing in Chapter 59A, Article 12 NMSA 1978 shall be construed to require an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries or affiliates.

B. A license as an insurance producer shall not be required of the following:

(1) an officer, director or employee of an insurer or of an insurance producer; provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and:

(a) the officer's, director's or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance;

(b) the officer's, director's or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance; or

(c) the officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance;

(2) a person who receives no commission and who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or enrolls individuals, issues certificates or otherwise assists in administering plans, or

performs administrative services related to mass marketed property and casualty insurance;

(3) an employer or association or its officers, directors, employees or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contract;

(4) employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(5) a person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state; provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(6) person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract; provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(7) a salaried full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer; provided that the employee does not sell or solicit insurance or receive a commission."

## **Chapter 89 Section 30 Laws 2016**

SECTION 30. Section 59A-12-11 NMSA 1978 (being Laws 1984, Chapter 127, Section 212) is amended to read:

"59A-12-11. NO LICENSE WHERE SHARES OR INTEREST USED AS INDUCEMENT TO INSURANCE.--The superintendent shall not license as an insurance producer, or permit any such license to continue, if the superintendent finds that the licensee did, or that the applicant for license intends to offer, give or sell stock or other ownership or participating interest in the agency or brokerage as inducement to or in connection with purchase of insurance."

## Chapter 89 Section 31 Laws 2016

SECTION 31. Section 59A-12-12 NMSA 1978 (being Laws 1984, Chapter 127, Section 213, as amended by Laws 1999, Chapter 272, Section 8 and also by Laws 1999, Chapter 289, Section 9) is repealed and a new Section 59A-12-12 NMSA 1978 is enacted to read:

### "59A-12-12. APPLICATION AND GENERAL QUALIFICATIONS FOR INDIVIDUAL INSURANCE PRODUCER LICENSE.--

A. An individual applying for a resident insurance producer license shall apply to the superintendent on the uniform application and declare under penalty of refusal, suspension or revocation of the license that the statements made in the application are true, correct and complete to the best of the applicant's knowledge and belief.

B. Before approving the application, the superintendent shall:

(1) confirm that the applicant:

(a) is at least eighteen years of age;

(b) has not committed any act that is a ground for denial, suspension or revocation under the Insurance Code;

(c) has paid the fees set forth in Section 59A-6-1 NMSA 1978;

(d) has successfully passed the examinations for the lines of authority for which the application is made, if such examination is required; and

(e) is in compliance with other applicable qualifications and requirements of the Insurance Code;

(2) review the applicant's answers to the standard background questions on the uniform application;

(3) obtain the applicant's fingerprints; and

(4) conduct state and federal criminal background checks on the applicant.

C. The superintendent may require any documents reasonably necessary to verify the information contained in an application. The superintendent may obtain fingerprints from licensed resident insurance producers from whom fingerprints were not

obtained at the time of application or when adding additional lines of authority to their license.

D. Each insurer that sells, solicits or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting or negotiating limited line credit insurance a program of instruction approved by the superintendent."

## **Chapter 89 Section 32 Laws 2016**

SECTION 32. Section 59A-12-13 NMSA 1978 (being Laws 1984, Chapter 127, Section 214) is amended to read:

"59A-12-13. SPECIAL REQUIREMENTS, TITLE INSURANCE PRODUCERS.--

A. The superintendent shall not issue or permit to continue an insurance producer license for title insurance except for an applicant or a licensee who, in addition to other applicable qualifications and requirements, owns, operates or controls an abstract plant consisting of a set of records in which an entry has been made of all documents or matters that under law impart constructive notice of matters affecting title to real property or any interest therein or encumbrance thereon, which have been filed or recorded in the county for which such title plant is maintained for a period of not less than twenty years immediately prior to date of application for license. Such records shall consist of:

(1) an index or indices in which notations of or references to any documents that describe property affected thereby are posted, entered or otherwise included, according to the property described therein, or copies or briefs of all documents that describe the property affected thereby that are sorted and filed according to such property; and

(2) an index or indices in which all other such documents are posted, entered or otherwise included, according to the name or names of the parties whose title to real property or any interest therein or encumbrances thereon is affected.

B. A license to issue title insurance shall permit the licensee to issue policies only on property located in the county or counties for which the licensee has the necessary abstract plant."

## **Chapter 89 Section 33 Laws 2016**

SECTION 33. Section 59A-12-15 NMSA 1978 (being Laws 1984, Chapter 127, Section 216, as amended by Laws 1999, Chapter 272, Section 9 and also by Laws 1999, Chapter 289, Section 10) is amended to read:

"59A-12-15. LICENSING BUSINESS ENTITIES.--

A. A business entity acting as an insurance producer is required to obtain an insurance producer license. Application shall be made using the uniform business entity application. Before approving the application, the superintendent shall confirm that:

(1) the business entity has paid the fees set forth in Section 59A-6-1 NMSA 1978;

(2) the business entity has designated a licensed insurance producer responsible for the business entity's compliance with the insurance laws of this state; and

(3) a licensee who is to exercise license powers shall be affiliated by submitting an application. The application must be submitted with payment as required in Section 59A-6-1 NMSA 1978.

B. The application shall be signed on behalf of the applicant by an authorized partner or corporate officer, and under oath if required by the superintendent.

C. The application form may require the following information about the applicant:

(1) if the applicant is a partnership, the name, residence, proof of identity, business record and reputation, business experience of each partner and any other information required by the superintendent;

(2) if the applicant is a corporation, the name, residence, proof of identity, business record and reputation, business experience of each officer, member of the board of directors, controlling stockholder and any other information required by the superintendent;

(3) evidence satisfactory to the superintendent that transaction of business proposed to be transacted under the license applied for is within the partnership agreement, if the applicant is a partnership, or within the corporate powers, if the applicant is a corporation; and

(4) such further information concerning the applicant, appointment of the applicant, partners, corporate officers, directors and stockholders, as the superintendent may require.

D. If the applicant is a partnership, each individual who is not a general partner and who is to exercise license powers, and if the applicant is a corporation, each individual, whether or not an officer, director, stockholder or in other relationship to the corporation, who is to exercise the license powers, shall file an application as though for an individual license for the same kind of business as that applied for by the partnership or corporation.

E. The application shall be accompanied by payment of the application filing fee, fee for any examination required under the Insurance Code to be taken and passed prior to licensing and by any bond otherwise required for the license applied for. A license application filing fee is required for each individual who is to exercise the license powers of a corporation, or license powers of a partnership if not a general partner therein.

F. The business entity shall comply with all other licensing and registration requirements to do business in the state."

## **Chapter 89 Section 34 Laws 2016**

SECTION 34. Section 59A-12-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 217, as amended) is amended to read:

"59A-12-16. EXAMINATION FOR LICENSE.--

A. A resident individual applying for an insurance producer license shall, prior to issuance of license, personally take and pass a written examination. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the superintendent.

B. The superintendent may contract with an outside testing service for administering examinations and collecting the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the superintendent as set forth in Section 59A-6-1 NMSA 1978.

D. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

E. No examination shall be required:

(1) for renewal or continuance of an existing license, except as provided in Subsection D of Section 59A-11-10 NMSA 1978;

(2) of an applicant for limited license as provided in Section 59A-12-18 NMSA 1978;

(3) of applicants with respect to life and annuities or accident and health insurances who hold the chartered life underwriter (C.L.U.) designation by the American college of life underwriters;

(4) of applicants with respect to property and casualty insurance who hold the designation of chartered property and casualty underwriter (C.P.C.U.) designation by the American institute of property and casualty underwriters;

(5) of applicants for temporary license as provided for in Section 59A-12-19 NMSA 1978;

(6) of an applicant for a license covering the same kind or kinds of insurance as to which licensed in this state under a similar license within five years preceding date of application for the new license, unless the previous license was suspended, revoked or continuation thereof refused by the superintendent; or

(7) of an applicant for insurance producer license, if the applicant took and passed a similar examination in a state in which already licensed, subject to Section 59A-5-33 NMSA 1978.

F. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to take an examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's insurance producer database records, maintained by the national association of insurance commissioners, its affiliates or subsidiaries, indicate that the insurance producer is or was licensed in good standing for the line of authority requested.

G. A person licensed as an insurance producer in another state who moves to this state shall apply within ninety days of establishing legal residence to become a resident insurance producer. No examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by rule."

## **Chapter 89 Section 35 Laws 2016**

SECTION 35. Section 59A-12-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 218, as amended) is amended to read:

"59A-12-17. SCOPE OF LICENSE.--

A. Unless denied licensure pursuant to Sections 59A-11-8 and 59A-11-14 NMSA 1978, a person who has met the requirements of Sections 59A-12-12 and 59A-12-15 NMSA 1978 shall be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the following lines of authority:



(1) life insurance coverage on human lives, including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) accident and health or sickness insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income;

(3) property insurance coverage for the direct or consequential loss or damage to property of every kind;

(4) casualty insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property;

(5) variable life and variable annuity products insurance coverage provided under variable life insurance contracts and variable annuities;

(6) personal lines property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes;

(7) limited line credit insurance; and

(8) any other line of insurance permitted under state laws.

B. A licensee as to variable annuities or similar contracts deemed to constitute securities shall also possess license as a security salesman under other applicable state laws.

C. An insurance producer license shall remain in effect unless revoked or suspended as long as the fee set forth in Section 59A-6-1 NMSA 1978 is paid and education requirements for resident insurance producers are met by the due date.

D. An insurance producer who allows the insurance producer's license to lapse may, within twelve months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty in the amount of double the unpaid renewal fee shall be required for any renewal fee received after the due date.

E. A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance may request a waiver of those procedures. The insurance producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

F. The license shall contain the licensee's name, address and personal identification number, the date of issuance, the lines of authority, the expiration date and any other information the superintendent deems necessary.

G. Licensees shall inform the superintendent in the format prescribed by the superintendent of a change of address within thirty days of the change. Failure to timely inform the superintendent of a change in legal name or address shall result in a penalty of fifty dollars (\$50.00).

H. The superintendent may contract with non-governmental entities, including the national association of insurance commissioners or any affiliates or subsidiaries that the national association of insurance commissioners oversees, to perform any ministerial functions, including the collection of fees, related to insurance producer licensing that the superintendent and the nongovernmental entity may deem appropriate."

## **Chapter 89 Section 36 Laws 2016**

SECTION 36. Section 59A-12-18 NMSA 1978 (being Laws 1984, Chapter 127, Section 219, as amended) is amended to read:

"59A-12-18. LIMITED LINES.--

A. The superintendent may issue a limited insurance producer 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 disability insurance, credit property insurance or credit involuntary unemployment insurance under a master, corporate, group or individual policy is customarily required of or offered to the purchaser or borrower, covering only that credit life, credit disability, credit property or credit involuntary unemployment insurance.

B. The superintendent may issue a limited insurance producer 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 individual responsible for the vendor's compliance with the requirements of the Portable Electronics Insurance Act. 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."

## Chapter 89 Section 37 Laws 2016

SECTION 37. Section 59A-12-18.1 NMSA 1978 (being Laws 2013, Chapter 140, Section 3) is amended to read:

"59A-12-18.1. LIMITED LINES TRAVEL INSURANCE PRODUCER LICENSE.--

A. The superintendent may issue a limited lines travel insurance producer license to applicants who are qualified to solicit or sell travel insurance.

B. A travel retailer may offer travel insurance under the license of a limited lines travel insurance producer only if:

(1) the limited lines travel insurance producer 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 producer;

(2) the limited lines travel insurance producer:

(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 producer;

(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 producer has selected a designated responsible agent who is one of its licensed individual insurance producer employees and who is responsible for the limited lines travel insurance producer'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 producer's insurance operations comply with the fingerprinting requirements for insurance producers of the resident state of the limited lines travel insurance producer;

(5) the limited lines travel insurance producer has paid all applicable insurance producer licensing fees pursuant to state law; and

(6) the limited lines travel insurance producer 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 producer;

(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 producer 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 insurance producer 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 producer 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 producer 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 producer" means a licensed managing general agent or third-party administrator or a licensed insurance producer;

(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" does not include 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 89 Section 38 Laws 2016**

SECTION 38. Section 59A-12-19 NMSA 1978 (being Laws 1984, Chapter 127, Section 220) is repealed and a new Section 59A-12-19 NMSA 1978 is enacted to read:

"59A-12-19. TEMPORARY LICENSES.--

A. The superintendent may issue a temporary insurance producer license for a period not to exceed one hundred eighty days without requiring an examination if

the superintendent deems that the temporary license is necessary for the servicing of an insurance business in the following cases:

(1) to the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the insurance producer or for the recovery or return of the insurance producer to the business or to provide for the training and licensing of new personnel to operate the insurance producer's business;

(2) to a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

(3) to the designee of a licensed insurance producer entering active service in the armed forces of the United States; or

(4) in any other circumstance where the superintendent deems that the public interest will best be served by the issuance of the license.

B. The superintendent may by order limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The superintendent may require the temporary licensee to have a suitable sponsor who is a licensed insurance producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The superintendent may by order revoke a temporary license if the interest of insureds or the public is endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business."

## **Chapter 89 Section 39 Laws 2016**

SECTION 39. Section 59A-12-20 NMSA 1978 (being Laws 1984, Chapter 127, Section 221, as amended) is amended to read:

"59A-12-20. PLACE OF BUSINESS.--An insurance producer shall have and maintain a place of business accessible to the public where the licensee conducts transactions under the license. Nothing in this section shall prohibit maintenance of the place of business in the licensee's residence."

## **Chapter 89 Section 40 Laws 2016**

SECTION 40. Section 59A-12-21 NMSA 1978 (being Laws 1984, Chapter 127, Section 222) is amended to read:

"59A-12-21. RECORDS OF INSURANCE PRODUCER.--

A. Every insurance producer shall keep in the insurance producer's place of business complete records of transactions under the license. The record shall show the following information for each insurance policy placed by or through the licensee:

- (1) the names of the insurer and insured;
- (2) the number and expiration date of each policy;
- (3) the premium payable for each policy;
- (4) the names of all other persons from whom business is accepted or to whom commissions are promised or paid;
- (5) all premiums collected; and
- (6) any additional information the superintendent may require.

B. The records shall be open to the superintendent's examination, and the superintendent may at any reasonable time require the licensee to furnish, in the manner or form that the superintendent may require, any information kept or required to be kept in such records.

C. Records as to a particular policy may be destroyed on expiration of three years after the policy's expiration."

## **Chapter 89 Section 41 Laws 2016**

SECTION 41. Section 59A-12-22 NMSA 1978 (being Laws 1984, Chapter 127, Section 223, as amended) is amended to read:

"59A-12-22. FIDUCIARY FUNDS--INSURANCE PRODUCERS, SURPLUS LINE BROKERS, BAIL BONDSMEN, MOTOR CLUB AGENTS AND OTHERS.--

A. All funds of others received by a person licensed or acting as an insurance producer, surplus line broker, bail bondsman or their solicitor, motor club agent or agent for a health care plan or prepaid dental plan, or in a similar capacity for which licensing of the person is required under the Insurance Code, are received and held by the person in a fiduciary capacity. Any person who diverts or appropriates funds to the person's own use, or takes or secretes with intent to embezzle, all without consent of the person entitled to the funds, is guilty of larceny by embezzlement.

B. Subject to the terms of any agreement between a person or licensee and the person's or licensee's principal or obligee, each person who does not make immediate remittance of funds to the insurer or other person entitled thereto shall elect and follow as to funds received for account of a particular insurer or person either of the following methods:

(1) remit received premiums (less applicable commissions, if any) and return premiums to the insurer or other person entitled thereto within fifteen days after receipt; or

(2) establish and maintain in a commercial bank or other established financial institution depository one or more accounts, separate from accounts holding general personal, firm or corporate funds, and forthwith deposit and retain therein pending transmittal to the insurer or other person entitled thereto all such premiums (net of applicable commissions, if any) and return premiums. Funds belonging to more than one principal may be as deposited and held in the same account so long as the amount held for each principal is readily ascertainable from the records of the depositor. The depositor may commingle with such fiduciary funds in a particular account such additional funds as the licensee deems prudent for advancing premiums, reserves for payment of return commissions or for other contingencies arising in the business of receiving and transmitting premiums or return premiums.

C. The person may commingle with the person's own funds to an unlimited amount funds of a particular principal who has in writing in advance expressly waived the segregation requirements of Subsection B of this section.

D. Any commingling of funds with funds of any person permitted under this section shall not alter the fiduciary capacity of the person as to funds of others."

## **Chapter 89 Section 42 Laws 2016**

SECTION 42. Section 59A-12-23 NMSA 1978 (being Laws 1984, Chapter 127, Section 224, as amended by Laws 1999, Chapter 272, Section 13 and also by Laws 1999, Chapter 289, Section 14) is amended to read:

"59A-12-23. INSURANCE VENDING MACHINES.--

A. A licensed insurance producer may solicit for and issue personal travel accident insurance policies of an authorized insurer by means of mechanical vending machines supervised by the insurance producer and placed at airports and other places of convenience to the traveling public, if the superintendent finds that:

(1) the policy provides reasonable coverage and benefits, is suitable for sale and issuance by vending machine and use of such a machine in a proposed location would be of material convenience to the public;

(2) the type of machine proposed to be used is reasonably suitable for the purpose;

(3) reasonable means are provided for informing prospective purchasers of policy coverages and restrictions;



(4) reasonable means are provided for refund of money inserted in defective machines and for which insurance so paid for is not received; and

(5) the cost of maintaining such a machine at a particular location is reasonable.

B. For each machine to be used the superintendent shall issue to the applicant a special vending machine license. The license shall state the name and address of the insurer and insurance producer, name of the policy to be sold and serial number and operating location of the machine. The license shall be subject to biennial continuation, to expiration, suspension or revocation coincidentally with that of the insurance producer. The superintendent shall also revoke the license as to any machine as to which the superintendent finds that license qualifications no longer exist. Proof of existence of a subsisting license shall be displayed on or about each machine in use in the manner that the superintendent reasonably requires."

## **Chapter 89 Section 43 Laws 2016**

SECTION 43. Section 59A-12-25 NMSA 1978 (being Laws 1984, Chapter 127, Section 226, as amended by Laws 1999, Chapter 272, Section 15 and also by Laws 1999, Chapter 289, Section 16) is amended to read:

"59A-12-25. NONRESIDENT INSURANCE PRODUCERS--RETALIATION.--

A. The superintendent may refuse to issue a license as an insurance producer to a resident of another state or country, who is otherwise qualified under Chapter 59A, Article 12 NMSA 1978 for license as an insurance producer in New Mexico, if under the laws of the other state or country licensed residents of this state are prohibited or prevented from acting as an insurance producer because of their residence.

B. As part of an application for a license, the nonresident applicant shall appoint the superintendent, on a form prescribed and furnished by the superintendent, as agent on whom may be served all legal process issued by a court in this state in any action against or involving the licensee as to transactions under the license. The appointment shall be irrevocable and continue for so long as an action could arise or exist. Duplicate copies of process shall be served upon the superintendent or other individual in apparent charge of the office of superintendent of insurance during the superintendent's absence, accompanied by payment of the process service fee specified in Section 59A-6-1 NMSA 1978. Upon service the superintendent shall promptly forward a copy by certified mail, return receipt requested, to the licensee at the licensee's last address of record with the superintendent. Process served and copy forwarded as so provided shall for all purposes constitute personal service upon the licensee.

C. The licensee shall likewise file with the superintendent written agreement to appear before the superintendent pursuant to notice of hearing, show cause order or subpoena issued by the superintendent and deposited, postage paid, by certified mail in a letter depository of the United States post office, addressed to the licensee at the licensee's last address of record with the superintendent, and that upon failure of the licensee to appear the licensee thereby consents to any subsequent suspension, revocation or refusal of the superintendent to continue the license."

## **Chapter 89 Section 44 Laws 2016**

SECTION 44. Section 59A-12-26 NMSA 1978 (being Laws 1984, Chapter 127, Section 227, as amended) is amended to read:

"59A-12-26. CONTINUING EDUCATION.--

A. The superintendent shall require as a condition to continuation of an insurance producer license that during the twenty-four months next preceding expiration of the current license period the licensee has attended the minimum number of hours of formal class instruction, lectures or seminars required and approved by the superintendent covering the kinds of insurance for which licensed.

B. Instruction shall be designed to refresh the licensee's understanding of basic principles and coverages involved, recent and prospective changes, applicable laws and rules of the superintendent, proper conduct of the licensee's business and duties and responsibilities of the licensee.

C. The superintendent may permit licensees who because of remoteness of residence or business cannot with reasonable convenience attend formal instruction sessions to successfully complete an equivalent course of study and instruction online or by mail.

D. The superintendent may impose a penalty not to exceed fifty dollars (\$50.00) for a licensee's failure to timely report continuing education credits.

E. The superintendent shall charge, at the time of certifying each licensee's continuing education credits as a condition of continuation of license, a fee of one dollar (\$1.00) per credit hour of continuing education; provided that the superintendent may contract with an independent agency to receive and review continuing education compliance reports and, in such a case, the fee shall be a reasonable amount fixed by the superintendent and payable to the contracting agency.

F. This section shall not apply to holders of limited license issued under Section 59A-12-18 NMSA 1978."

## **Chapter 89 Section 45 Laws 2016**

SECTION 45. Section 59A-12-26.1 NMSA 1978 (being Laws 1988, Chapter 112, Section 1) is amended to read:

"59A-12-26.1. INSURANCE LICENSEE CONTINUING EDUCATION FUND.-- There is created in the state treasury a fund that shall be known as the "insurance licensee continuing education fund". All fees imposed by the provisions of Section 59A-12-26 NMSA 1978 shall be deposited in the insurance licensee continuing education fund for the purpose of administering the continuing education program."

### **Chapter 89 Section 46 Laws 2016**

SECTION 46. A new section of Chapter 59A, Article 12 NMSA 1978 is enacted to read:

"ASSUMED NAMES.--An insurance producer shall not do business under any name other than the insurance producer's legal name without prior written approval of the superintendent."

### **Chapter 89 Section 47 Laws 2016**

SECTION 47. A new section of Chapter 59A, Article 12 NMSA 1978 is enacted to read:

"COMMISSIONS.--

A. An insurance company or insurance producer shall not pay a commission, service fee, brokerage or other valuable consideration to a person for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under Chapter 59A, Article 12 NMSA 1978 and is not so licensed.

B. A person shall not accept a commission, service fee, brokerage or other valuable consideration for selling, soliciting or negotiating insurance in this state if that person is required to be licensed under Chapter 59A, Article 12 NMSA 1978 and is not so licensed.

C. Renewal or other deferred commissions may be paid to a person for selling, soliciting or negotiating insurance in this state if the person was required to be licensed under Chapter 59A, Article 12 NMSA 1978 at the time of the sale, solicitation or negotiation and was so licensed at that time.

D. An insurer or insurance producer shall not pay or assign commissions, service fees, brokerages or other valuable consideration to an insurance agency or to persons who do not sell, solicit or negotiate insurance in this state."

### **Chapter 89 Section 48 Laws 2016**

SECTION 48. A new section of Chapter 59A, Article 12 NMSA 1978 is enacted to read:

"COMPENSATION DISCLOSURE.--

A. When any insurance producer or any affiliate of the insurance producer receives any compensation from a customer for the placement of insurance or represents the customer with respect to that placement, neither that insurance producer nor the affiliate shall accept or receive any compensation from an insurer or other third party for that placement of insurance unless the insurance producer has, prior to the customer's purchase of insurance:

(1) obtained the customer's documented acknowledgment that such compensation will be received by the insurance producer or affiliate; and

(2) disclosed the amount of compensation from the insurer or other third party for that placement. If the amount of compensation is not known at the time of disclosure, the insurance producer shall disclose the specific method for calculating the compensation and, if possible, a reasonable estimate of the amount.

B. Subsection A of this section does not apply to an insurance producer who:

(1) does not receive compensation from the customer for the placement of insurance;

(2) represents an insurer that has appointed the insurance producer in connection with that placement of insurance; and

(3) discloses to the customer prior to the purchase of insurance:

(a) that the insurance producer will receive compensation from an insurer in connection with that placement; or

(b) that, in connection with that placement of insurance, the insurance producer represents the insurer and that the insurance producer may provide services to the customer for the insurer.

C. A person shall not be considered a customer for purposes of this section if the person is merely:

(1) a participant or beneficiary of an employee benefit plan; or

(2) covered by a group or blanket insurance policy or group annuity contract sold, solicited or negotiated by the insurance producer or affiliate.

D. This section does not apply to:

(1) a person licensed as an insurance producer who acts only as an intermediary between an insurer and the customer's insurance producer, for example, a managing general agent, a sales manager or wholesale broker; or

(2) a reinsurance intermediary.

E. For purposes of this section:

(1) "compensation from an insurer or other third party" means payments, commissions, fees, awards, overrides, bonuses, contingent commissions, loans, stock options, gifts, prizes or any other form of valuable consideration, whether or not payable pursuant to a written agreement; and

(2) "documented acknowledgment" means the customer's written consent obtained prior to the customer's purchase of insurance. In the case of a purchase over the telephone or by electronic means for which written consent cannot reasonably be obtained, consent documented by the producer shall be acceptable."

## **Chapter 89 Section 49 Laws 2016**

SECTION 49. Section 59A-12A-2 NMSA 1978 (being Laws 1989, Chapter 374, Section 2) is amended to read:

"59A-12A-2. DEFINITIONS.--As used in Chapter 59A, Article 12A NMSA 1978:

A. unless otherwise specified in that article, all definitions of the Insurance Code apply;

B. "administrator" or "third party administrator" or "TPA" means a business entity that receives any form of administrative or service fee, consideration, payment, premium, reimbursement or compensation for performing or providing any service, function or duty, or activity respecting insurance or alternatives to insurance in any administrative or management capacity, including but not limited to claims or expense review, underwriting, administration and management under a contract or other agreement to be performed in this state or with respect to risks located or partially located in this state or on behalf of persons in this state for any:

(1) plan;

(2) insurance carrier; or

(3) person that self insures;

C. "administrator" does not include:

(1) an employer on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of that employer as long as only the functions of a group policyholder are performed;

(2) a union on behalf of its members as long as only the functions of a group policyholder are performed;

(3) an insurance company or a corporation that owns more than fifty percent of an insurance company licensed in this state or a health maintenance organization, nonprofit health care plan or a dental plan that is licensed in this state;

(4) an insurance producer licensed in this state acting on behalf of an admitted insurance carrier by whom the insurance producer is appointed and only within the scope of the insurance producer's license as an insurance producer as defined in the article of the Insurance Code under which the insurance producer is licensed;

(5) a creditor on behalf of its debtors with respect to insurance covering its debtors as long as only the functions of a group policyholder or creditor are performed;

(6) a trust and its trustees, agents and employees acting under the trust, established in conformity with 29 U.S.C. Sec. 186;

(7) a trust exempt from taxations under Section 501(a) of the Internal Revenue Code of 1986, and its trustees and employees acting under the trust, or a custodian and its agents and employees acting pursuant to a custodian account that meets the requirements of Section 401(f) of the Internal Revenue Code of 1986;

(8) a bank that is subject to supervision or examination by federal or state regulatory authorities as long as the bank is only performing the function for which it is licensed;

(9) a company that advances and collects any premium or charge from its credit card holders who have authorized it to do so, provided the company does not adjust or settle claims and acts only in its debtor-creditor relationship with its credit card holders;

(10) a person who adjusts or settles claims in the normal course of practice or employment as an attorney at law who does not collect any charge or premium in connection with life or health coverage or annuities;

(11) an adjuster licensed by the superintendent, when engaged in the performance of duties as an adjuster;

(12) any joint fund, risk management pool or self-insurance pool composed of political subdivisions of this state that participate in such funds or pools through interlocal agreements, and any administrative agency established under the interlocal agreement to administer the fund or pool;

(13) a person providing technical, advisory or consulting services who does not make management or discretionary decisions on behalf of an insurance carrier, plan or person that self-insures;

(14) a full-time salaried employee of an insurance carrier to the extent that the functions performed are only for that insurance carrier or any affiliated carrier;

(15) attorneys in fact for a Lloyd's or reciprocal exchange as authorized respectively in Chapter 38 or 39 NMSA 1978, while acting as attorney in fact for such Lloyd's or reciprocal exchange;

(16) a certified public accountant, attorney at law or actuary when performing duties or undertaking responsibilities within the authority and scope of that particular profession;

(17) an association and any subsidiary, affiliated or related corporations of that association. For the purposes of this subsection, "association" means a bona fide trade or professional association which has been in existence for not less than five years and which enters into agreements to pool its liabilities for workers compensation benefits, pursuant to the Group Self-Insurance Act; or

(18) a home owner warranty corporation provided by a trade association that has been in business in New Mexico for at least five years;

D. "alternatives to insurance" means an agreement to indemnify against loss, risk, damage, liability or other contingency relating to property or persons, whether or not such agreement is deemed to be insurance under applicable law or where persons self insure;

E. "bank" means a bank, savings and loan association, credit union or other financial institution authorized by law to accept and maintain deposits;

F. "business entity" means a corporation, organization, government or governmental subdivision or agency, business trust, estate trust, partnership, association or any other legal entity; and

G. "plan" means any employer-employee, multiple employer-employee, group, member or other employee benefit or welfare program, medical, accident, sickness, injury, indemnity, death or health benefit program contracting to provide indemnification or expense reimbursement in this state to persons domiciled in this state

or for risks located or partially located in this state for any type of the following coverages, expenses or benefits: medical, surgical, orthopedic, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, workers' compensation or optometric plan or programs, hospital care or benefit or benefits in the event of sickness, accident, disability, death or unemployment, or prepaid legal services."

## **Chapter 89 Section 50 Laws 2016**

SECTION 50. Section 59A-12A-3 NMSA 1978 (being Laws 1989, Chapter 374, Section 3) is amended to read:

"59A-12A-3. LICENSE REQUIRED--PENALTY.--

A. No administrator shall perform or provide any service, function, duty or activity respecting any insurance, plan, self-insurance or alternatives to insurance in an administrative or management capacity in this state or with respect to risks located or partially located in this state or on behalf of persons in this state unless licensed as an administrator under the Insurance Code.

B. Licensing procedures for administrators shall be in accordance with Chapter 59A, Article 11 NMSA 1978.

C. In addition to any applicable denial, suspension or revocation of a license, refusal to continue license or administrative fine, violation of this section shall be a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000) and by forfeiture to the state of an amount equal to all compensation for services as administrator received or to be received by the violator by reason of the prohibited transactions."

## **Chapter 89 Section 51 Laws 2016**

SECTION 51. Section 59A-12B-2 NMSA 1978 (being Laws 1993, Chapter 320, Section 28) is amended to read:

"59A-12B-2. DEFINITIONS.--As used in the Managing General Agents Law:

A. "actuary" means a person who is a member in good standing of the American academy of actuaries;

B. "insurer" means any person, firm, association or corporation duly authorized in this state pursuant to the Insurance Code to transact the business of insurance;

C. "managing general agent" means any person, firm, association or corporation who:



(1) manages all or part of the insurance business of an insurer, including the management of a separate division, department or underwriting office;

(2) acts as an insurance producer for such insurer whether known as a managing general agent, manager or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year together with one or more of the following activities related to the business produced:

(a) adjusts or pays claims in excess of an amount determined by the superintendent; or

(b) negotiates reinsurance on behalf of the insurer; and

(3) notwithstanding the above, the following persons shall not be considered as managing general agents for the purposes of the Managing General Agents Law:

(a) an employee of the insurer;

(b) a United States manager of the United States branch of an alien insurer;

(c) an underwriting manager which, pursuant to contract, manages all or part of the insurance operations of the insurer, is under common control with the insurer, subject to the Insurance Holding Company Law, and whose compensation is not based on the volume of premiums written; and

(d) the attorney-in-fact authorized by and acting for the subscribers of a reciprocal insurer or inter-insurance exchange under powers of attorney; and

D. "underwrite" means the authority to accept or reject risk on behalf of the insurer."

## **Chapter 89 Section 52 Laws 2016**

SECTION 52. Section 59A-12B-5 NMSA 1978 (being Laws 1993, Chapter 320, Section 31) is amended to read:

"59A-12B-5. DUTIES OF INSURERS.--

A. The insurer shall have on file an independent financial examination, in a form acceptable to the superintendent, of each managing general agent with which it has done business.

B. If a managing general agent establishes loss reserves, the insurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the managing general agent. This is in addition to any other required loss reserve certification.

C. The insurer shall periodically, at least semiannually, conduct an on-site review of the underwriting and claims processing operations of the managing general agent.

D. Binding authority for all reinsurance contracts or participation in insurance or reinsurance syndicates shall rest with an officer of the insurer, who shall not be affiliated with the managing general agent.

E. Within thirty days of entering into or termination of a contract with a managing general agent, the insurer shall provide written notification of such appointment or termination to the superintendent. Notices of appointment of a managing general agent shall include a statement of duties which the applicant is expected to perform on behalf of the insurer, the lines of insurance for which the applicant is to be authorized to act, and any other information the superintendent may request.

F. An insurer shall review its books and records each quarter to determine if any insurance producer has become a managing general agent. If the insurer determines that an insurance producer has become a managing general agent, the insurer shall promptly notify the insurance producer and the superintendent of such determination and the insurer and insurance producer must fully comply with the provisions of the Managing General Agents Law within thirty days.

G. An insurer shall not appoint to its board of directors an officer, director, employee, insurance producer or controlling shareholder of its managing general agents. This subsection shall not apply to relationships governed by the Insurance Holding Company Law or, if applicable, the Broker Controlled Insurer Law."

## **Chapter 89 Section 53 Laws 2016**

SECTION 53. Section 59A-12B-7 NMSA 1978 (being Laws 1993, Chapter 320, Section 33) is amended to read:

"59A-12B-7. PENALTIES AND LIABILITIES.--

A. If the superintendent determines that the managing general agent or any other person has not materially complied with the provisions of Chapter 59A, Article

12B NMSA 1978, or any rule or order promulgated thereunder, after notice and opportunity to be heard, the superintendent may order:

(1) for each separate violation, a penalty in an amount not exceeding ten thousand dollars (\$10,000);

(2) revocation or suspension of the managing general agent's license; and

(3) if it was found that because of such material noncompliance that the insurer has suffered any loss or damage, the superintendent may maintain a civil action brought by or on behalf of the insurer and its policyholders and creditors for recovery of compensatory damages for the benefit of the insurer and its policyholders and creditors or seek other appropriate relief.

B. If an order of rehabilitation or liquidation of the insurer has been entered pursuant to Chapter 59A, Article 41 NMSA 1978, and the receiver appointed under that order determines that the managing general agent or any other person has not materially complied with the provisions of Chapter 59A, Article 12B NMSA 1978, or any regulation or order promulgated thereunder, and the insurer suffered any loss or damage, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

C. Nothing contained in this section shall affect the right of the superintendent to impose any other penalties provided for in the Insurance Code.

D. Nothing contained in the Managing General Agents Law is intended to or shall in any manner limit or restrict the rights of policyholders, claimants or creditors."

## **Chapter 89 Section 54 Laws 2016**

SECTION 54. Section 59A-13-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 232, as amended) is amended to read:

"59A-13-4. QUALIFICATIONS FOR LICENSE AS ADJUSTER.--

A. The superintendent shall license as an adjuster only an individual who is otherwise in compliance with Chapter 59A, Articles 11 and 13 NMSA 1978 and who has furnished evidence satisfactory to the superintendent that the applicant for license:

(1) is not less than eighteen years of age;

(2) is a bona fide resident of this state, or of a state or country that permits residents of this state to act as adjusters therein, except that under circumstances of necessity the superintendent may waive the requirement of reciprocity;

(3) can demonstrate a good business reputation, and intends to engage in a bona fide manner in the business of adjusting insurance claims;

(4) 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;

(5) has passed any examination required for licensing; and

(6) has filed the bond required under Section 59A-13-5 NMSA 1978.

B. Paragraphs (2) and (6) 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 89 Section 55 Laws 2016**

SECTION 55. A new section of Chapter 59A, Article 13 NMSA 1978 is enacted to read:

### **"EXAMINATION FOR LICENSE.--**

A. A resident individual applying for a license as an adjuster shall, prior to issuance of a license, personally take and pass a written examination. The examination shall test the knowledge of the individual concerning the duties and responsibilities of an adjuster and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the superintendent.

B. The superintendent may contract with an outside testing service for administering examinations and collecting the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the superintendent as set forth in Section 59A-6-1 NMSA 1978.

D. An individual who fails to appear for an examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

E. No examination shall be required:

(1) for renewal or continuation of an existing license, except as provided in Subsection D of Section 59A-11-10 NMSA 1978;

(2) of applicants for a temporary license as provided in Section 59A-13-6 NMSA 1978; or

(3) if the applicant took and passed a similar examination in a state in which the applicant is already licensed, subject to Section 59A-5-33 NMSA 1978."

## **Chapter 89 Section 56 Laws 2016**

SECTION 56. A new section of Chapter 59A, Article 13 NMSA 1978 is enacted to read:

"CONTINUING EDUCATION.--

A. The superintendent shall require as a condition to continuation of an adjuster license that during the twenty-four months next preceding expiration of the current license period, the licensee has attended the minimum number of hours of formal class instruction, lectures or seminars required and approved by the superintendent.

B. Instruction shall be designed to refresh the licensee's understanding of basic principles and coverages involved, recent and prospective changes, applicable laws and rules of the superintendent, proper conduct of the licensee's business and duties and responsibilities of the licensee.

C. The superintendent may permit licensees who, because of remoteness of residence or business, cannot with reasonable convenience attend formal instruction sessions to successfully complete an equivalent course of study and instruction online or by mail.

D. The superintendent may impose a penalty not to exceed fifty dollars (\$50.00) for a licensee's failure to timely report continuing education credits.

E. The superintendent shall charge, at the time of certifying each licensee's continuing education credits as a condition of continuation of license, a fee of one dollar (\$1.00) per credit hour of continuing education; provided that the superintendent may contract with an independent agency to receive and review a continuing education compliance report, and in such a case, the fee shall be a reasonable amount fixed by the superintendent and payable to the contracting agency."

## **Chapter 89 Section 57 Laws 2016**

SECTION 57. Section 59A-14-9 NMSA 1978 (being Laws 1984, Chapter 127, Section 247) is amended to read:

"59A-14-9. SURPLUS LINE BROKER MAY ACCEPT BUSINESS FROM INSURANCE PRODUCERS--COMPENSATION OF OTHERS PROHIBITED.--

A. A surplus line broker may accept and export surplus line business from and for any insurance producer licensed by this state for the kind of insurance involved, and may compensate the insurance producer therefor.

B. A surplus line broker shall not directly or indirectly compensate any person other than a licensed insurance producer for origination of business. This provision shall not be deemed to prohibit payment of regular salaries to the surplus line broker's employees or sharing of compensation with other persons entitled thereto under firm and corporate agreements and surplus line broker licenses. Violation of this provision is a misdemeanor."

## **Chapter 89 Section 58 Laws 2016**

SECTION 58. Section 59A-16-14 NMSA 1978 (being Laws 1984, Chapter 127, Section 280) is amended to read:

"59A-16-14. COERCION OF BUSINESS PROHIBITED--NOTICE REQUIRED--CHARGES PROHIBITED.--

A. No person engaged in selling real or personal property or in the business of financing the purchase of real or personal property, or of lending money on the security of real or personal property, and no trustee, director, officer, agent or other employee of the person shall require, as a condition precedent, concurrent or subsequent to the sale, or financing the purchase of property, or to lending money upon the security of a mortgage on the property, or as a condition precedent, concurrent or subsequent, for the renewal or extension of the loan or mortgage or for the performance of any other act in connection therewith, that the person purchasing the property, or for whom the purchase is to be financed, or to whom the money is to be loaned, or for

whom the extension, renewal or other act is to be granted, or performed, negotiate a policy of insurance or renewal covering the property through a particular insurer or insurance producer. The lender is required to inform the buyer of the buyer's rights regarding the placing of insurance on a form prescribed by the superintendent. The buyer must signify that the buyer has been so informed. This section shall not prevent the exercise by a person of the right to designate the terms and provisions of the policy and the amount of coverage with respect to insurance on property pledged or mortgaged to the person.

B. An insured shall have the option, in addition to the rights granted under the terms and conditions of the insurance contract, at any time to substitute, replace, change or extend the existent policy in force. For the purpose of this section "anniversary date" means the yearly return of the inception of the effective date of policy in force.

C. If the lender signifies that the proposed insurance is acceptable, the buyer must supply the lender with the policy or binder prior to the closing of the loan.

D. If the policy is cancelled by the insurer, the borrower must have a new policy in the hands of the lender twenty-four hours prior to the effective day of the cancellation.

E. The borrower or the borrower's insurance producer must deliver a renewal policy or an annual renewal certificate to the lender at least fifteen days prior to expiration or renewal of the policy in force if required by the lender.

F. When the insured wants to change insurance producers, the insurance producer writing the renewal business must file with the lender a current letter of authority signed by the borrower. If a change of insurance producers is involved in the renewal of the policy, the lender shall notify the insurance producer renewing the insurance and the borrower in writing within five business days after tender of renewal policy, if the renewal policy is not acceptable to the lender.

G. No person engaged in selling real or personal property or in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property shall charge, either directly or indirectly to a borrower or debtor a consideration of any kind to substitute the insurance policy of one insurer of the property for that of another, or make a charge for a change in the kind, type or amount of the insurance if the change is made at the time the borrower or debtor first becomes a party to the transaction for which the insurance is required, or at an annual renewal date of the policy.

H. No person engaged in the business of selling real or personal property or financing purchase or lending money on security of real or personal property shall share information received in connection with an application for credit in the purchase or for the loan with any parent corporation, subsidiary or affiliate of the person or with an

insurer, for the purpose of soliciting insurance, unless the person has written authorization to release the information executed by the purchaser or borrower subsequent to extension of credit or making of the loan.

I. In addition to other penalties provided in Section 59A-1-18 NMSA 1978, a lender who violates this section shall be liable in a civil action brought by a buyer, insured or insurance producer injured by the violation, or each of them, for an amount of liquidated damages equal to the amount of actual damages as a result of coercion prohibited by this section."

## **Chapter 89 Section 59 Laws 2016**

SECTION 59. Section 59A-16-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 283, as amended) is amended to read:

"59A-16-17. UNFAIR DISCRIMINATION, REBATES PROHIBITED--OTHER COVERAGES.--

A. No property, casualty or title insurer, or nonprofit health care or prepaid dental plan or other insurance-type organization, or any employee or representative thereof, and no insurance producer or other representative shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or coverage, or after insurance or coverage has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the superintendent as provided by law.

B. No title insurer or title insurance producer shall:

(1) pay, directly or indirectly, to the insured or any person acting as agent, representative, attorney or employee of the owner, lessee, mortgagee, existing or prospective, of the real property, or interest therein, that is the subject matter of title insurance or as to which a service is to be performed any commission or part of its fee or charges or other consideration as inducement or compensation for the placing of any order for a title insurance policy or for performance of any escrow or other service by the insurer with respect thereto;

(2) issue any policy or perform any service in connection with which it or any insurance producer or other person has paid or contemplates paying any commission, rebate or inducement in violation of this section;

(3) give or receive, directly or indirectly, any consideration or thing of value for the referral of title insurance business or escrow or other service provided



by a title insurer or title insurance producer unless otherwise permitted by regulation of the superintendent; or

(4) enter into a reinsurance agreement with an affiliate of a real estate developer, real estate agency, mortgage lender or referrer of title business without the prior written approval of the superintendent.

C. No insured named in a policy or any employee of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

D. No such insurer or organization shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance or coverage, or in the dividends or other benefits payable thereon or in any other of the terms and conditions of the insurance or coverage.

E. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or other representatives; or as prohibiting the extension of credit to an insured for the payment of any premium and for which credit a reasonable rate of interest is charged and collected; or as prohibiting any insurer or insurance producer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As to title insurance, nothing in this section shall prohibit bulk rates or special rates for customers of prescribed classes if such bulk or special rates are provided for in the currently effective schedule of fees and charges of the title insurer as filed with the superintendent."

## **Chapter 89 Section 60 Laws 2016**

SECTION 60. Section 59A-18-24 NMSA 1978 (being Laws 1984, Chapter 127, Section 353) is amended to read:

"59A-18-24. INSURANCE PRODUCERS--WHOM THEY REPRESENT.--A licensed insurance producer appointed as insurance producer by an insurer shall, in any controversy between the insured or the insured's beneficiary and the insurer, be held to be the agent of the insurer that issued the insurance solicited or applied for, anything in the application or policy to the contrary notwithstanding; and a broker licensed to transact insurance business in this state, in any controversy between the insured or the insured's beneficiary and the insurer issuing the insurance through its licensed insurance producer at request of the broker, shall be held to be the agent of the insured, anything in the application or policy to the contrary notwithstanding, unless under particular circumstances it is found that the broker is representing the insurer. This section shall not apply as to surplus line brokers, nor as to acts of the insurance

producer in fraud or attempted fraud of the insurer or acts of the broker in fraud or attempted fraud of the insured."

## **Chapter 89 Section 61 Laws 2016**

SECTION 61. Section 59A-30-4 NMSA 1978 (being Laws 1985, Chapter 28, Section 4, as amended) is amended to read:

"59A-30-4. CONTROL AND SUPERVISION BY SUPERINTENDENT.--

A. Title insurers and title insurance producers shall operate in New Mexico under the control and supervision of the superintendent. The superintendent shall promulgate such rules and regulations as are necessary to carry out the provisions of the New Mexico Title Insurance Law. The superintendent may adopt uniform rules and regulations to address underwriting standards and practices, including but not limited to rules and regulations that prohibit title insurers from insuring specified risks that the superintendent determines may pose an unreasonable risk to the financial stability of title insurers.

B. No title insurer or title insurance producer shall collect any premium, issue any title insurance policy or agency agreement, or reinsure any portion of the risk assumed under any title insurance policy, other than in conformance with the New Mexico Title Insurance Law and rules and regulations adopted by the superintendent as authorized by the New Mexico Title Insurance Law."

## **Chapter 89 Section 62 Laws 2016**

SECTION 62. Section 59A-30-6 NMSA 1978 (being Laws 1985, Chapter 28, Section 6, as amended) is amended to read:

"59A-30-6. PREMIUMS--AGENCY AGREEMENTS--DUTY TO PROMULGATE REASONABLE RATES--EXCEPTION.--

A. The superintendent shall promulgate the premium rates of title insurers and title insurance producers for title insurance policies and the percentage of premium to be retained by title insurers under agency agreements, except that premium rates for reinsurance as between title insurers shall not be promulgated by the superintendent. No premium that has not been promulgated or approved by the superintendent shall be charged for any title insurance policy. The superintendent shall not promulgate charges of title insurers and title insurance producers other than premium rates for title insurance policies and the percentage of premium to be retained by title insurers under agency agreements.

B. The superintendent shall promulgate additional premium rates for searches or examinations of title conducted or performed for the purpose of issuance of

a title insurance policy when the search or examination involves more than one chain of title or other unusual complexity.

C. Premium rates promulgated by the superintendent shall not be excessive, inadequate or unfairly discriminatory and shall contain an allowance permitting a profit that is not unreasonable in relation to the risks incurred in the business of title insurance. Premium rates may include an allowance for recoupment of assessments made pursuant to the Title Insurance Guaranty Act.

D. Title insurance producers shall retain not less than eighty percent of the gross premiums collected on commitments, policies and endorsements issued for one to four family residential property transactions with a liability amount of not more than two million dollars (\$2,000,000); provided, however, that from July 1, 2009 until otherwise ordered by the superintendent, title insurance producers shall retain not less than eighty-one percent of the gross premiums collected on commitments, policies and endorsements issued for one to four family residential property transactions with a liability amount of not more than two million dollars (\$2,000,000). The portion of the premium to be retained by the title insurance producers for policies with a liability amount greater than two million dollars (\$2,000,000) shall be set by rule.

E. A title insurer may file with the superintendent proposed title insurance rates for a specific county or counties lower than the premium rate promulgated by the superintendent. The superintendent shall provide notice of the filed title insurance rates to all insurance producers and underwriters doing business in that county or counties and may conduct a hearing. In determining whether to approve filed title insurance rates, the superintendent shall consider the interests and protection of consumers and independent title insurance producers and the potential impact on competition within the title insurance industry. Upon approval of the filed title insurance rates, the title insurer and its insurance producers shall use the filed and approved title insurance rates.

F. The superintendent shall adopt rules to establish standards and procedures by which a title insurance rate lower than the promulgated rate shall be filed and may be approved."

## **Chapter 89 Section 63 Laws 2016**

SECTION 63. Section 59A-32A-4 NMSA 1978 (being Laws 2001, Chapter 94, Section 4) is amended to read:

"59A-32A-4. LICENSING RENTAL CAR COMPANIES AS RENTAL CAR AGENTS.--A rental car company may apply to be licensed as a rental car agent under the terms of the Rental Car Insurance Limited Producer License Act if it satisfies all of the requirements of that act and if it files the following documents with the superintendent of insurance:

A. a written application for licensure, signed by the applicant or by an officer of the applicant, in the form prescribed by the superintendent of insurance that includes a listing of all locations at which the rental car company intends to offer, sell, bind, effect, solicit or negotiate rental car insurance; and

B. a certificate filed by the insurer for the applicant stating that the insurer has satisfied itself that the applicant is trustworthy and competent to act as its insurance producer limited to this purpose; that the insurer has reviewed the employee training program required by Subsection D of Section 59A-32A-5 NMSA 1978 and believes that it satisfies the statutory requirements; and that the insurer will appoint the applicant to act as its insurance producer to transact the kinds of insurance that are permitted by the Rental Car Insurance Limited Producer License Act if the license for which the applicant is applying is issued by the superintendent of insurance. The certification shall be subscribed by an officer or managing agent of the insurer on a form prescribed by the superintendent of insurance."

## **Chapter 89 Section 64 Laws 2016**

SECTION 64. Section 59A-32A-7 NMSA 1978 (being Laws 2001, Chapter 94, Section 7) is amended to read:

"59A-32A-7. RENTAL CAR AGENT AND ENDORSEE PROHIBITIONS.--A rental car agent or endorsee shall not:

A. offer, sell, bind, effect, solicit or negotiate the purchase of rental car insurance except in conjunction with and incidental to rental agreements;

B. advertise, represent or otherwise portray itself or any of its employees or agents as licensed insurers or insurance producers; or

C. pay any person, including a rental car endorsee, any compensation, fee or commission that is dependent solely on the placement of insurance under the license issued pursuant to the Rental Car Insurance Limited Producer License Act. Nothing in this section shall prohibit production payments or incentive payments to a person that are not dependent solely upon the sale of insurance."

## **Chapter 89 Section 65 Laws 2016**

SECTION 65. Section 59A-38-11 NMSA 1978 (being Laws 1984, Chapter 127, Section 654) is amended to read:

"59A-38-11. LLOYDS PLAN INSURANCE PRODUCERS--LICENSING.--The provisions of the Insurance Code as to qualifications, appointment, licensing and regulation of insurance producers apply neither to the attorney-in-fact at Lloyds nor to a salaried representative of Lloyds who receives no commission, but do apply to any insurance producer who receives any commission."

## Chapter 89 Section 66 Laws 2016

SECTION 66. Section 59A-46-17 NMSA 1978 (being Laws 1993, Chapter 266, Section 17) is amended to read:

"59A-46-17. REGULATION OF HEALTH MAINTENANCE ORGANIZATION INSURANCE PRODUCERS.--

A. Requirements and procedures for licensing of health maintenance organization insurance producers shall be governed by the provisions of Chapter 59A, Articles 11 and 12 NMSA 1978 and any regulations adopted by the superintendent pertaining to those articles.

B. None of the following shall be required to hold a health maintenance organization insurance producer license:

(1) any regular salaried officer or employee of a health maintenance organization who devotes substantially all of that person's time to activities other than the taking or transmitting of applications or membership fees or premiums for health maintenance organization membership or who receives no commission or other compensation directly dependent upon the business obtained and who does not solicit or accept from the public applications for health maintenance organization membership;

(2) employers or their officers or employees or the trustees of any employee benefit plan to the extent that such employers, officers, employees or trustees are engaged in the administration or operation of any program of employee benefits involving the use of health maintenance organization memberships, if those employers, officers, employees or trustees are not compensated directly or indirectly by the health maintenance organization issuing the health maintenance organization memberships;

(3) banks or their officers and employees to the extent that such banks, officers and employees collect and remit charges by charging same against accounts of depositors on the orders of such depositors; or

(4) any person or the employee of any person who has contracted to provide administrative, management or health care services to a health maintenance organization and who is compensated for those services by the payment of an amount calculated as a percentage of the revenues, net income or profit of the health maintenance organization, if that method of compensation is the sole basis for subjecting that person or the employee of the person to the provisions of the Health Maintenance Organization Law.

C. The superintendent may by rule exempt certain classes of persons from the requirement of obtaining a license if:

(1) the functions they perform do not require special competence, trustworthiness or the regulatory surveillance made possible by licensing; or

(2) other existing safeguards make regulation unnecessary."

## **Chapter 89 Section 67 Laws 2016**

SECTION 67. Section 59A-47-30 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.29, as amended by Laws 1999, Chapter 272, Section 23 and also by Laws 1999, Chapter 289, Section 35) is amended to read:

"59A-47-30. LICENSED INSURANCE PRODUCERS REQUIRED--  
QUALIFICATIONS, LICENSING PROCEDURES AND CONDITIONS.--

A. Solicitation of subscriberships for a health care plan shall be made only by insurance producers of the plan who are duly qualified, appointed and licensed as such under the Insurance Code. This provision shall not apply to salaried officers or employees of health care plans who are visiting or instructing their licensed insurance producers and who do not receive any part of the commission for any business written by such insurance producers with their assistance.

B. No person shall be appointed or licensed as a health care plan insurance producer unless qualified as follows:

(1) is an individual at least eighteen years of age;

(2) has had, or will receive, reasonable experience or instruction in the health care plan for which license is applied;

(3) is trustworthy and of good business reputation;

(4) intends to engage in a bona fide way in the business of the health care plan; and

(5) passes an examination for license given by or under authorization of the superintendent.

C. A health care plan insurance producer shall be appointed by and at any one time represent only one health care plan.

D. Subject to the other provisions of this section, procedures for appointment and licensing insurance producers, examination, issuance or denial of license, continuation or expiration, suspension, revocation or refusal to continue license and other applicable matters relating to licensing and licenses shall be as provided as to licenses of insurance producers as to health insurance under Chapter 59A, Article 11

NMSA 1978. Fee for application for license and continuation of license shall be as specified in Section 59A-6-1 NMSA 1978, and neither fee shall be refundable."

## **Chapter 89 Section 68 Laws 2016**

SECTION 68. Section 59A-55-6 NMSA 1978 (being Laws 1988, Chapter 125, Section 6) is amended to read:

"59A-55-6. TAXATION OF RISK RETENTION GROUPS.--

A. Each risk retention group shall be liable for the payment of premium taxes and taxes on premiums of direct business for risks resident or located within New Mexico and shall report to the superintendent the net premium written for risks resident or located within New Mexico. The risk retention group shall be subject to taxation and any applicable fines and penalties related thereto, on the same basis as an admitted insurer.

B. To the extent licensed insurance producers are utilized pursuant to Section 59A-55-24 NMSA 1978, they shall report to the superintendent the premiums for direct business for risks resident or located within this state, which the insurance producers have placed with or on behalf of a risk retention group not licensed in this state.

C. To the extent that insurance producers are utilized pursuant to Section 59A-55-24 NMSA 1978, the insurance producer shall keep a complete and separate record of all policies procured from each such risk retention group, which record shall be open to examination by the superintendent and shall contain the information required by the superintendent by rule."

## **Chapter 89 Section 69 Laws 2016**

SECTION 69. Section 59A-55-24 NMSA 1978 (being Laws 1988, Chapter 125, Section 24, as amended by Laws 1999, Chapter 272, Section 27 and also by Laws 1999, Chapter 289, Section 41) is amended to read:

"59A-55-24. DUTY OF INSURANCE PRODUCERS TO OBTAIN LICENSE.--

A. No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance in New Mexico from a risk retention group unless such person, firm, association or corporation is licensed as an insurance producer pursuant to the provisions of the New Mexico Insurance Code.

B. No person, firm, association or corporation shall act or aid in any manner in soliciting, negotiating or procuring liability insurance:

(1) in New Mexico for a purchasing group from an authorized insurer or a risk retention group chartered in a state, unless such person, firm, association or corporation is licensed as an insurance producer pursuant to the provisions of the New Mexico Insurance Code;

(2) in New Mexico for any members of a purchasing group under a purchasing group's policy, unless such person, firm, association or corporation is licensed as an insurance producer pursuant to the provisions of the

New Mexico Insurance Code; or

(3) from an insurer not authorized to do business in New Mexico on behalf of a purchasing group located in this state, unless such person, firm, association or corporation is licensed as a surplus lines agent or excess line broker pursuant to the provisions of the New Mexico Insurance Code.

C. Every person, firm, association or corporation licensed pursuant to the provisions of the New Mexico Insurance Code on business placed with risk retention groups or written through a purchasing group shall inform each prospective insured of the provisions of the notice required by Section 59A-55-10 NMSA 1978 in the case of a purchasing group."

## **Chapter 89 Section 70 Laws 2016**

SECTION 70. REPEAL.--Sections 59A-7-5, 59A-7-8, 59A-7-9, 59A-11-19, 59A-12-5, 59A-12-6, 59A-12-8 through 59A-12-10, 59A-12-14 and 59A-12-20.1 NMSA 1978 (being Laws 1984, Chapter 127, Sections 111, 114, 115, 198, 205, 206, 207, 209 and 210, Laws 1997, Chapter 48, Section 1, Laws 1984, Chapter 127, Section 215 and Laws 2003, Chapter 306, Section 5, as amended) are repealed.

## **Chapter 89 Section 71 Laws 2016**

SECTION 71. 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 89 Section 72 Laws 2016**

SECTION 72. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2017.

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Senate Bill 108, aa

Approved March 9, 2016



# **LAWS 2016, CHAPTER 90**

## **AN ACT**

RELATING TO LICENSING OF OSTEOPATHIC PHYSICIANS AND OSTEOPATHIC PHYSICIAN ASSISTANTS; AMENDING, REPEALING AND ENACTING SECTIONS OF CHAPTER 61, ARTICLE 10 NMSA 1978; PROVIDING FOR PENALTIES; AMENDING THE PHARMACIST PRESCRIPTIVE AUTHORITY ACT TO REQUIRE THE BOARD OF OSTEOPATHIC MEDICINE TO ADOPT REGULATIONS FOR OSTEOPATHIC PHYSICIANS WHO SUPERVISE PHARMACY CLINICIANS; PROVIDING FOR DELAYED REPEAL.

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

### **Chapter 90 Section 1 Laws 2016**

SECTION 1. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"SHORT TITLE.--Chapter 61, Article 10 NMSA 1978 may be cited as the "Osteopathic Medicine Act"."

### **Chapter 90 Section 2 Laws 2016**

SECTION 2. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Osteopathic Medicine Act:

A. "administer" means to apply a prepackaged drug to the body of a patient by any means;

B. "board" means the board of osteopathic medicine;

C. "dispense" means to deliver a drug directly to a patient and includes the compounding, labeling and repackaging of a drug from a bulk or original container;

D. "distribute" means to administer or supply directly to a patient under the direct care of the distributing osteopathic physician's assistant one or more doses of drugs prepackaged by a licensed pharmacist and excludes the compounding or repackaging from a bulk or original container;

E. "health care practitioner" means an individual licensed, certified or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession;

F. "osteopathic medicine" means the complete system or school of osteopathic medicine governed by the Osteopathic Medicine Act;

G. "osteopathic physician" means a physician licensed to practice osteopathic medicine in New Mexico;

H. "osteopathic physician assistant" means a skilled person licensed by the board as being qualified by academic and practical training to provide patient services under supervision as provided by the Osteopathic Medicine Act;

I. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

J. "prescribe" means to issue an order individually for the person for whom prescribed, either directly from the prescriber to the pharmacist or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient and the name of the drug prescribed, directions for its use and the date of its issue; and

K. "supervising physician" means a physician licensed under the Medical Practice Act or an osteopathic physician."

## **Chapter 90 Section 3 Laws 2016**

SECTION 3. Section 61-10-2 NMSA 1978 (being Laws 1974, Chapter 78, Section 16) is amended to read:

"61-10-2. CRIMINAL OFFENDER'S CHARACTER EVALUATION.--The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Osteopathic Medicine Act."

## **Chapter 90 Section 4 Laws 2016**

SECTION 4. Section 61-10-3 NMSA 1978 (being Laws 1933, Chapter 117, Section 2, as amended) is amended to read:

"61-10-3. LICENSE.--It is unlawful for any person to practice as an osteopathic physician in this state without a license issued by the board; provided that any license or certificate previously issued under the laws of this state authorizing its holder to practice osteopathic medicine shall in no way be affected by the provisions of the Osteopathic Medicine Act."

## **Chapter 90 Section 5 Laws 2016**

SECTION 5. Section 61-10-5 NMSA 1978 (being Laws 1933, Chapter 117, Section 4, as amended) is repealed and a new Section 61-10-5 NMSA 1978 is enacted to read:

"61-10-5. BOARD OF OSTEOPATHIC MEDICINE--APPOINTMENT--TERMS--MEETINGS--MEMBERSHIP--EXAMINATIONS--DUTIES--POWERS.--

A. The "board of osteopathic medicine" is created. The board shall be administratively attached to the regulation and licensing department. The board shall consist of seven members appointed by the governor as follows:

(1) five members with at least two years of experience in their respective fields immediately preceding their appointment who are licensed as follows:

(a) four members who are osteopathic physicians licensed in good standing pursuant to Section 61-10-8 NMSA 1978; and

(b) one member who is an osteopathic physician assistant licensed in good standing pursuant to the Osteopathic Medicine Act; and

(2) two public members. The public members of the board shall not:

(a) have been licensed as osteopathic physicians or as osteopathic physician assistants; or

(b) have any significant financial interest, direct or indirect, in the occupation regulated.

B. The governor shall appoint board members who are osteopathic physicians and osteopathic physician assistants respectively from a list of five qualified osteopathic physicians and five osteopathic physician assistants that the New Mexico osteopathic medical association or its authorized governing body or council provides.

C. The board shall:

(1) issue licenses to individuals who meet the qualifications for licensure as osteopathic physicians or osteopathic physician assistants;

(2) discipline osteopathic physicians and osteopathic physician assistants for incompetence or unprofessional or dishonorable conduct;

(3) protect the public from the unauthorized practice of osteopathy;

(4) enforce and administer the provisions of the Osteopathic Medicine Act;

(5) adopt and promulgate in accordance with the Uniform Licensing Act and the State Rules Act all rules for the implementation and enforcement of the Osteopathic Medicine Act. Rulemaking shall include adoption and promulgation of rules related to the management of pain based on a review of national standards for pain management;

(6) adopt and use a seal;

(7) administer oaths to applicants, witnesses and others appearing before the board, as the board deems appropriate;

(8) take testimony on matters within the board's jurisdiction;

(9) adopt and promulgate rules relating to the oversight of osteopathic physicians who supervise pharmacist clinicians;

(10) keep an accurate record of all of its meetings, receipts and disbursements;

(11) maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

(12) grant, deny, review, suspend and revoke licenses to practice osteopathic medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Osteopathic Medicine Act;

(13) hire or contract with investigators as it deems necessary to investigate possible violations of the Osteopathic Medicine Act;

(14) establish continuing medical education requirements that coincide with continuing medical education cycles of the American osteopathic association for licensed osteopathic physicians and osteopathic physician assistants; and

(15) establish committees as it deems necessary for executing board duties.

D. The board may adopt and enforce rules for osteopathic physician assistants for:

(1) establishing qualifications of education, skill and experience for licensure of a person as an osteopathic physician assistant and providing forms and procedures for licensure and for biennial registration of supervision;

(2) examining and evaluating applicants for licensure as an osteopathic physician assistant as to their skill, knowledge and experience in the field of medical care;

(3) establishing when and for how long an osteopathic physician assistant is permitted to prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act after consultation with the board of pharmacy;

(4) allowing a supervising osteopathic physician to temporarily delegate supervisory responsibilities for an osteopathic physician assistant to another supervising physician;

(5) allowing an osteopathic physician assistant to temporarily serve under a supervising physician other than the supervising physician of record; and

(6) the purpose of carrying out all other provisions of the Osteopathic Medicine Act.

E. Board members shall be appointed for staggered terms of four years so that not more than three members' terms expire in any one year. A board member shall not serve more than two consecutive terms. The vacancy of the term of a member shall be filled by appointment by the governor to the unexpired portion of the four-year term. A board member whose term has expired shall serve until the member's successor is appointed.

F. The board shall meet at the call of the chair at least three times a year and may hold other meetings as the chair deems necessary. A majority of the board constitutes a quorum.

G. The board shall have an annual election of a chair and a vice chair and other officers as it deems necessary.

H. The chair shall preside over the meetings and affairs of the board. The vice chair shall perform those duties that the chair assigns and shall serve as chair when the chair is absent.

I. Members of the board are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance, for each day necessarily spent in the discharge of their duties.

J. A board member failing to attend three consecutive meetings, either regular or special, shall automatically be removed as a member of the board unless excused for reasons established in board rules."

## **Chapter 90 Section 6 Laws 2016**

SECTION 6. Section 61-10-6 NMSA 1978 (being Laws 1933, Chapter 117, Section 5, as amended) is repealed and a new Section 61-10-6 NMSA 1978 is enacted to read:

"61-10-6. LICENSURE--REQUIREMENTS.--

A. The board may consider for licensure an individual who:

(1) is a graduate of a school of osteopathic medicine accredited by the commission on osteopathic college accreditation and recognized by the American osteopathic association;

(2) has successfully passed all three levels of the comprehensive osteopathic medical licensing examination, its predecessor examination or the United States medical licensing examination; provided that the board shall not grant a license to an applicant who has not passed the final level of the respective examination within seven years of having successfully passed the first level of that examination;

(3) provides evidence to the board of having completed at least two years of a board-approved nationally accredited post-graduate training program; and

(4) makes an application in accordance with board rules and pays the fees required pursuant to Section 61-10-6.1 NMSA 1978.

B. An applicant who has not completed two years of a board-approved nationally accredited post-graduate training program, but who otherwise meets all other licensing requirements, may present evidence to the board of the applicant's other professional experience for consideration by the board in lieu of the approved post-graduate program required pursuant to Paragraph (3) of Subsection A of this section.

C. As a condition of licensure, the board may require an applicant for licensure to:

(1) appear personally before the board or its designated agent for an interview; or

(2) be fingerprinted and supply any other information necessary to obtain a state or national criminal background check; provided that an applicant shall pay any fees for a criminal background check directly to the screening entity that performs the check."

## **Chapter 90 Section 7 Laws 2016**

SECTION 7. Section 61-10-6.1 NMSA 1978 (being Laws 1989, Chapter 371, Section 3) is repealed and a new Section 61-10-6.1 NMSA 1978 is enacted to read:

"61-10-6.1. FEES.--The board may charge the following fees; provided that all fees are nonrefundable and shall be used by the board to carry out its duties:

A. pertaining to osteopathic physicians:

(1) an application fee not to exceed one thousand dollars (\$1,000) for triennial licensure of an osteopathic physician pursuant to Section 61-10-12 NMSA 1978;

(2) a triennial osteopathic physician licensure renewal fee not to exceed one thousand dollars (\$1,000);

(3) a fee not to exceed seventy-five dollars (\$75.00) for placing an osteopathic physician license on inactive status;

(4) a late fee not to exceed:

(a) two hundred dollars (\$200) for osteopathic physicians who fail to renew their licenses on or before July 1 of the year in which their triennial licenses are due for renewal but who renew on or before September 29 of that year; and

(b) four hundred dollars (\$400) for osteopathic physicians who renew their licenses after September 29;

(5) a reinstatement fee not to exceed five hundred dollars (\$500) for reinstatement of a revoked, suspended or inactive osteopathic physician license;

(6) a temporary license fee not to exceed one hundred dollars (\$100);

(7) a post-graduate osteopathic physician training license fee not to exceed fifty dollars (\$50.00);

(8) an osteopathic physician telemedicine triennial license fee not to exceed four hundred dollars (\$400); and

(9) an impaired physician fee not to exceed one hundred dollars (\$100);

B. pertaining to osteopathic physician assistants:

(1) a biennial license fee not to exceed four hundred fifty dollars (\$450);

(2) a registration of new supervision fee that is equal to one-half of the biennial license fee for osteopathic physician assistants;

(3) a late fee not to exceed twenty-five dollars (\$25.00) for osteopathic physician assistants who fail to renew their licenses on or before July 1 of the year in which their biennial licenses are due for renewal;

(4) an impaired osteopathic physician assistant fee not to exceed one hundred dollars (\$100); and

(5) a fee for an osteopathic physician assistant license on inactive status not to exceed seventy-five dollars (\$75.00); and

C. pertaining to osteopathic physician and osteopathic physician assistant licensees or applicants:

(1) a fee not to exceed five hundred dollars (\$500) for reprocessing an application or renewal that includes errors that would otherwise be subject to investigation and possible disciplinary action; and

(2) a reasonable administrative fee that the board establishes by rule for verification of license, publications and copying charges."

## **Chapter 90 Section 8 Laws 2016**

SECTION 8. Section 61-10-7 NMSA 1978 (being Laws 1977, Chapter 155, Section 1) is repealed and a new Section 61-10-7 NMSA 1978 is enacted to read:

### **"61-10-7. TEMPORARY LICENSE--QUALIFICATIONS.--**

A. In the interim between regular board meetings, the board's chair or an authorized representative of the board shall issue a temporary license to practice as an osteopathic physician or osteopathic physician assistant to a qualified applicant who has filed a complete application for licensure in accordance with the Osteopathic Medicine Act and board rules. The temporary license shall expire on the date of the next regular meeting of the board, at which time the board shall grant final approval.

B. Upon written application, accompanied by proof of qualifications as specified by board rules, the board may issue a temporary license to an applicant who seeks temporary licensure to:

(1) provide services at an organized youth camp or school; provided that the practice of osteopathic medicine shall be confined to enrollees, leaders and employees of the camp or school;

(2) assist in teaching;



- (3) conduct research;
- (4) perform a specialized diagnostic and treatment procedure;
- (5) implement new technology; or
- (6) pursue an educational purpose.

C. The board shall grant a temporary license only to an applicant who:

(1) submits a written application and accompanies the application with proof of qualifications as specified in board rules;

(2) pays a temporary license fee pursuant to Section 61-10-6.1 NMSA 1978; and

(3) is supervised by an osteopathic physician who is licensed in New Mexico and who submits an affidavit attesting to the qualifications of the applicant and the activities that the applicant will perform.

D. The board shall issue a temporary license that is valid for a period not to exceed three months from the date of issuance. A temporary license may be renewed up to six times for a period not to exceed eighteen months.

E. A temporary license shall:

(1) describe the activities to which the licensee shall be limited; and

(2) identify the osteopathic physician who will supervise the applicant during the time the applicant practices osteopathic medicine in the state."

## **Chapter 90 Section 9 Laws 2016**

SECTION 9. Section 61-10-8 NMSA 1978 (being Laws 1933, Chapter 117, Section 6, as amended) is amended to read:

"61-10-8. PROFESSIONAL EDUCATION.--

A. After July 1, 2016, a first-time applicant for licensure to practice as an osteopathic physician shall:

(1) be a graduate of a college of osteopathic medicine accredited by the commission on osteopathic college accreditation and recognized by the American osteopathic association; and

(2) have completed at least two years of post-graduate training approved by the American osteopathic association or the accreditation council for graduate medical education.

B. An osteopathic physician who has been licensed in this state or another state of the United States before July 1, 2016 shall have completed at least one year of post-graduate training approved by the American osteopathic association or the accreditation council for graduate medical education."

## **Chapter 90 Section 10 Laws 2016**

SECTION 10. Section 61-10-11 NMSA 1978 (being Laws 1933, Chapter 117, Section 9, as amended) is amended to read:

"61-10-11. LICENSE ISSUED.--The board shall issue to each applicant for a license to practice as provided in the Osteopathic Medicine Act who has the required education qualifications and meets the requirements of that act a license that carries with it the title doctor of osteopathic medicine and osteopathic physician with right to practice as taught and practiced in the standard colleges of osteopathic medicine."

## **Chapter 90 Section 11 Laws 2016**

SECTION 11. Section 61-10-12 NMSA 1978 (being Laws 1933, Chapter 117, Section 10, as amended) is amended to read:

"61-10-12. LICENSE WITHOUT EXAMINATION.--The board may, in its discretion, issue a license without examination to an osteopathic physician who has been licensed in any country, state, territory or province and who is a graduate of a standard college of osteopathic medicine upon the following conditions:

- A. that the applicant is of good moral character;
- B. that the requirements to practice in the country, state, territory or province in which the applicant is already licensed are equal to those of this state; and
- C. that the applicant shall be required to pay the fee designated for such license in Section 61-10-6.1 NMSA 1978.

The board may also, in its discretion, issue a license without examination to an osteopathic physician who is a graduate of a standard college of osteopathic medicine and who has passed an examination for admission into the medical corps of any branch of the armed forces of the United States or the United States public health service."

## **Chapter 90 Section 12 Laws 2016**

SECTION 12. Section 61-10-15 NMSA 1978 (being Laws 1933, Chapter 117, Section 13, as amended) is repealed and a new Section 61-10-15 NMSA 1978 is enacted to read:

"61-10-15. REFUSAL AND REVOCATION OF LICENSE.--

A. Upon satisfactory proof being made to the board that an applicant for or holder of a license to practice osteopathic medicine has been guilty of unprofessional or dishonorable conduct, the board may:

- (1) refuse to issue a license to an applicant;
- (2) revoke or suspend a license; or
- (3) fine, censure or reprimand a licensee.

B. The board may, in its discretion and for good cause shown, place a licensee on probation on the terms and conditions it deems proper for protection of the public or for the purpose of rehabilitation of the probationer, or both. Upon expiration of the term of probation, if a term is set, the board may abate further proceedings if the licensee furnishes the board with evidence that the licensee is competent to practice and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent or if evidence shows that the licensee has not complied with the terms of probation, the board may revoke or suspend the licensee's license. If the board suspends a license, the licensee shall not practice during the term of suspension. A licensee whose license has been revoked or is in suspension and who thereafter practices or attempts or offers to practice in the state is guilty of a fourth degree felony and shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both, unless:

- (1) the period of suspension has expired;
- (2) the board has modified the suspension to permit the practice of osteopathic medicine; or
- (3) the board has reinstated the license.

D. The board shall not refuse to issue or renew a license nor shall it suspend or revoke a license for unprofessional or dishonorable conduct unless the person accused has been provided:

(1) at least twenty days' notice in writing of the charge against that person; and

(2) a public hearing by the board, with right of review of the board's decision by the district court of the first judicial district by certiorari, on petition of the party against whom the board's decision is rendered.

E. The board may compel the attendance of witnesses and the production of relevant books and papers for the investigation of matters that may come before it, and the presiding officer of the board may administer the requisite oaths. The board has the same authority to compel the giving of testimony that is conferred on courts of justice.

F. As used in this section:

(1) "fee splitting" means offering, delivering, receiving or accepting any unearned rebate, refund, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to a person or organization, irrespective of any membership, proprietary interest or co-ownership in or with a person to whom the patients, clients or customers are referred; and

(2) "unprofessional or dishonorable conduct" means conduct that the board has proscribed by rule and includes the following conduct of a licensee:

(a) procuring, aiding or abetting an illegal procedure;

(b) employing a person to solicit patients for the licensee;

(c) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;

(d) obtaining a fee by fraud or misrepresentation;

(e) willfully or negligently divulging a professional confidence;

(f) conviction of an offense punishable by incarceration in a state penitentiary or federal prison or conviction of a misdemeanor associated with the practice of the licensee. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;

(g) habitual or excessive use of intoxicants or drugs;

(h) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert a licensing examination;

(i) making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;

(j) impersonating another licensee, permitting or allowing a person to use the license of the licensee or practicing as a licensee under a false or assumed name;

(k) aiding or abetting the practice of a person not licensed by the board;

(l) gross negligence in the practice of a licensee;

(m) manifest incapacity or incompetence to practice as a licensee;

(n) discipline imposed on a licensee by another state, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of suspension or revocation of the state making the suspension or revocation is conclusive evidence;

(o) the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;

(p) fee splitting;

(q) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;

(r) conduct likely to deceive, defraud or harm the public;

(s) repeated similar negligent acts;

(t) employing abusive billing practices;

(u) failure to report to the board any adverse action taken against the licensee by: 1) another licensing jurisdiction; 2) a peer review body; 3) a health care entity; 4) a professional or medical society or association; 5) a governmental agency; 6) a law enforcement agency; or 7) a court for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action;

(v) failure to report to the board surrender of a license or other authorization to practice in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for disciplinary action;

(w) failure to furnish the board, its investigators or representatives with information requested by the board;

(x) abandonment of a patient;

(y) being found mentally incompetent by a court of competent jurisdiction;

(z) injudicious prescribing, administering or dispensing of a drug or medicine;

(aa) failure to adequately supervise, as provided by board rule, an osteopathic physician or osteopathic physician assistant;

(bb) sexual contact with a patient or person who has authority to make medical decisions for a patient, other than the spouse of the licensee;

(cc) conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;

(dd) the surrender of a license or withdrawal of an application for a license before another state licensing board while an investigation or disciplinary action is pending before that board for acts or conduct similar to acts or conduct that would constitute grounds for action pursuant to this section;

(ee) sexual contact with a former patient of the licensee, other than the spouse of the licensee, within one year from the end of treatment;

(ff) sexual contact with a patient when the licensee uses or exploits treatment, knowledge, emotions or influence derived from the previous professional relationship;

(gg) improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;

(hh) failure to provide pertinent and necessary medical records to another health care practitioner, to the patient of the osteopathic physician or to any other person in a timely manner when legally requested or authorized to do so by the patient or by a legally designated representative of the patient;

(ii) interaction with osteopathic physicians, hospital personnel, patients, family members or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient; or

(jj) willfully or negligently divulging privileged information or a professional secret."

## **Chapter 90 Section 13 Laws 2016**

SECTION 13. Section 61-10-17 NMSA 1978 (being Laws 1933, Chapter 117, Section 15, as amended) is amended to read:

"61-10-17. RECORDS.--The board shall keep a record, which shall be open to all proper parties for inspection at all reasonable times, of its proceedings relating to the issuance, refusal, renewal, suspension or revocation of licenses to practice in accordance with the Osteopathic Medicine Act. This record shall also contain the name, place of business and residence, the date and the number of the license of every osteopathic physician and osteopathic physician assistant licensed under the Osteopathic Medicine Act."

## **Chapter 90 Section 14 Laws 2016**

SECTION 14. Section 61-10-18 NMSA 1978 (being Laws 1933, Chapter 117, Section 16) is amended to read:

"61-10-18. NO ADDITIONAL POWER CONFERRED ON PRIOR LICENSEES.-- Nothing contained in the Osteopathic Medicine Act shall be construed as conferring any powers or authority not previously vested in osteopathic physicians or osteopathic physician assistants who hold licenses to practice osteopathic medicine under any pre-existing law or regulation unless such licensees are likewise licensed under the provisions of the Osteopathic Medicine Act."

## **Chapter 90 Section 15 Laws 2016**

SECTION 15. Section 61-10-19 NMSA 1978 (being Laws 1971, Chapter 140, Section 1, as amended) is amended to read:

"61-10-19. RENEWAL OF LICENSE--CERTIFICATE--FEE.--

A. All osteopathic physicians legally licensed to practice osteopathic medicine in this state shall, on or before July 1 of the third year after first-time licensure or the last licensure renewal, submit proof of completion of continuing education requirements as required by the board and pay to the secretary of the board a triennial renewal fee as provided in Section 61-10-6.1 NMSA 1978 for the renewal of a license to practice osteopathic medicine. Upon payment of fees and proof of completion of

continuing education requirements, the board shall issue a certificate of triennial renewal of license.

B. All osteopathic physician assistants legally licensed to practice osteopathic medicine in this state shall, on or before July 1 of the second year after first-time licensure or the last licensure renewal, submit proof of completion of continuing education requirements as required by the board and pay to the secretary of the board a biennial renewal fee as provided in Section 61-10-6.1 NMSA 1978 for the renewal of a license to practice osteopathic medicine. Upon payment of fees and proof of completion of continuing education requirements, the board shall issue a certificate of biennial renewal of license.

C. The chair of the board shall send a written notice to every osteopathic physician and osteopathic physician assistant holding a legal certificate to practice osteopathic medicine in this state at least thirty days prior to July 1 of the year in which the osteopathic physician or osteopathic physician assistant is due for renewal of licensure. The notice shall be directed to the last known address of the licensee, and notify the licensee that it will be necessary to pay the license renewal fee. Proper forms shall accompany the notice, and the licensee shall make application for the renewal of the licensee's certificate on these forms. The fact that a licensee has not received the licensee's blank form from the board shall not, however, relieve the licensee of the duty to register on or before July 1 of the year of renewal nor shall the board's failure to mail the forms operate to exempt the osteopathic physician or osteopathic physician assistant from the penalties provided in the Osteopathic Medicine Act."

## **Chapter 90 Section 16 Laws 2016**

SECTION 16. Section 61-10-20 NMSA 1978 (being Laws 1971, Chapter 140, Section 2, as amended) is amended to read:

"61-10-20. POST-GRADUATE EDUCATIONAL REQUIREMENTS.--For the purpose of protecting the health and well-being of the citizens of this state and for maintaining and continuing informed professional knowledge and awareness, the board shall establish mandatory continuing educational requirements for osteopathic physicians and osteopathic physician assistants licensed in this state. In establishing these requirements, the board shall recognize and give weight to existing educational methods, procedures, devices and programs in use among the various medical specialties and other recognized medical groups and the consensus of the members of the medical community. This section does not abrogate or affect the status, force or operation of the Uniform Licensing Act. The board shall not establish and enforce these requirements if they will reduce the availability of osteopathic physicians or osteopathic physician assistants in a community to an extent that adequate medical care is jeopardized."

## **Chapter 90 Section 17 Laws 2016**



SECTION 17. Section 61-10-21 NMSA 1978 (being Laws 1945, Chapter 79, Section 7, as amended) is amended to read:

"61-10-21. FAILURE TO COMPLY--CANCELLATION OF LICENSE--REINSTATEMENT--TEMPORARY CANCELLATION AT LICENSEE'S REQUEST.--

A. In the event any osteopathic physician or osteopathic physician assistant licensed to practice osteopathic medicine in New Mexico fails to comply with the requirements of Section 61-10-19 NMSA 1978, the licensee shall, upon order of the board, forfeit the licensee's right to practice osteopathic medicine in this state and the licensee's license and certificate shall be canceled; provided, however, that the chair of the board may reinstate the licensee upon the payment of all fees due and upon the presentation of satisfactory evidence of the attendance at an educational program as provided for in the Osteopathic Medicine Act.

B. It is further provided that any osteopathic physician or osteopathic physician assistant licensed to practice osteopathic medicine in New Mexico desiring to withdraw from the active practice of osteopathic medicine in this state shall have the right to apply to the chair of the board for a temporary suspension of the licensee's certificate to practice osteopathic medicine in this state, with the right to renew and reinstate the certificate if the licensee so desires, upon a showing that the licensee has paid the appropriate fees on or before July 1 of the year in which the license is due for renewal."

## **Chapter 90 Section 18 Laws 2016**

SECTION 18. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"PRACTICING WITHOUT LICENSE--PENALTY.--

A. A person who practices osteopathic medicine or who attempts to practice osteopathic medicine without first complying with the provisions of the Osteopathic Medicine Act and without being the holder of a license entitling the person to practice osteopathic medicine in New Mexico is guilty of a fourth degree felony.

B. A person who practices osteopathic medicine across state lines or who attempts to practice osteopathic medicine across state lines without first complying with the provisions of the Osteopathic Medicine Act and without being the holder of a telemedicine license entitling the person to practice osteopathic medicine across state lines is guilty of a fourth degree felony.

C. A person convicted pursuant to Subsection A or B of this section shall be sentenced under the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed eighteen months and, in the discretion of the sentencing court, to a fine not to exceed five thousand dollars (\$5,000), or both. Each occurrence of

practicing osteopathic medicine or attempting to practice osteopathic medicine without complying with the Osteopathic Medicine Act shall be a separate violation."

## **Chapter 90 Section 19 Laws 2016**

SECTION 19. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"TELEMEDICINE LICENSE.--

A. The board shall issue a telemedicine license to allow the practice of osteopathic medicine across state lines to an applicant who holds a full and unrestricted license to practice osteopathic medicine in another state or territory of the United States. The board shall establish by rule the requirements for licensure; provided the requirements shall not be more restrictive than those required for licensure by endorsement.

B. A telemedicine license shall be issued for a period not to exceed three years and may be renewed upon application, payment of fees as provided in the Osteopathic Medicine Act and compliance with other requirements established by rule of the board."

## **Chapter 90 Section 20 Laws 2016**

SECTION 20. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"LICENSURE--SUMMARY SUSPENSION--SUMMARY RESTRICTION--  
GROUNDS.--

A. The board may suspend or restrict a license to practice osteopathic medicine in New Mexico issued by the board without a hearing, simultaneously or at any time after the initiation of proceedings for a hearing provided pursuant to the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

(1) poses a clear and immediate danger to the public health and safety if the licensee continues to practice;

(2) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction; or

(3) has pled guilty to or has been found guilty of any offense relating to the practice of osteopathic medicine or any violent criminal offense in this state or a substantially equivalent criminal offense in another jurisdiction.

B. A licensee shall not be required to comply with a summary suspension or restriction of a license until notice has been served in accordance with procedures established in board rules or the licensee has actual knowledge of an order of suspension or restriction, whichever occurs first.

C. A licensee whose license is suspended or restricted pursuant to this section shall be entitled to a hearing before the board pursuant to the Uniform Licensing Act within fifteen days from the date the licensee requests a hearing."

## **Chapter 90 Section 21 Laws 2016**

SECTION 21. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"BOARD COMMUNICATION--PROTECTED ACTIONS.--

A. A report to the board regarding actual or potential disciplinary action, including a complaint, shall be a confidential communication and is not a public record for the purposes of the Inspection of Public Records Act.

B. Any data, communication or information that the board acquires, prepares or disseminates relating to actual or potential disciplinary action or its investigation of a complaint shall not be disclosed except to the extent necessary to:

(1) carry out the duties of the board;

(2) make a judicial appeal of a board action; or

(3) refer a case to a law enforcement agency, a national database clearinghouse or another licensing board.

C. Information contained in a complaint filed with the board may be disclosed when the board or a court acts on a complaint and:

(1) issues a notice of contemplated action; or

(2) reaches a settlement before issuing a notice of contemplated action.

D. A person shall not be subject to any civil damages or criminal prosecution for providing information to the board, whether as a report, a complaint or as testimony."

## **Chapter 90 Section 22 Laws 2016**

SECTION 22. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"OSTEOPATHIC PHYSICIAN ASSISTANT--LICENSURE--SCOPE OF AUTHORITY--REGISTRATION OF SUPERVISION--CHANGE OF SUPERVISION.--

A. No person shall perform or attempt to perform as an osteopathic physician assistant without first applying for and obtaining a license from the board as an osteopathic physician assistant and having the person's supervision registered in accordance with board regulations.

B. Osteopathic physician assistants may prescribe, administer and distribute dangerous drugs other than controlled substances in Schedule I of the Controlled Substances Act pursuant to regulations adopted by the board after consultation with the board of pharmacy if the prescribing, administering and distributing are done under the direction of a supervising physician; provided that such prescribing, administering and distributing are within the parameters of a board-approved formulary and guidelines established pursuant to Paragraph (3) of Subsection D of Section 61-10-5 NMSA 1978. The distribution process shall comply with state laws concerning prescription packaging, labeling and recordkeeping requirements.

C. An osteopathic physician assistant shall perform only those acts and duties assigned by a supervising physician that are within the scope of practice of such physician.

D. An applicant for a license as an osteopathic physician assistant shall complete application forms that the board supplies and pay a fee as provided in Section 61-10-6.1 NMSA 1978. Upon licensing by the board, the applicant shall have the applicant's name and address and other pertinent information enrolled by the board on a roster of osteopathic physician assistants.

E. Each osteopathic physician assistant shall biennially submit proof of completion of continuing education as required by the board and register the osteopathic physician assistant's name and current address, the name and office address of the supervising physician and such additional information as the board deems necessary.

F. In addition to the biennial requirements regarding the osteopathic physician assistant's supervising physician in Subsection E of this section, each osteopathic physician assistant has an ongoing duty to notify the board of a termination of supervision and to register the name and office address of a new supervising physician and the date on which supervision will commence. Each biennial registration or registration of new supervision shall be accompanied by a fee as provided in Section 61-10-6.1 NMSA 1978."

**Chapter 90 Section 23 Laws 2016**

SECTION 23. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"OSTEOPATHIC PHYSICIAN ASSISTANTS--INACTIVE LICENSE.--

A. An osteopathic physician assistant who notifies the board in writing on forms prescribed by the board may elect to place the osteopathic physician assistant's license on an inactive status. An osteopathic physician assistant with an inactive license shall be excused from payment of renewal fees and shall not practice as an osteopathic physician assistant.

B. An osteopathic physician assistant who engages in practice while the osteopathic physician assistant's license is lapsed or on inactive status is practicing without a license and is subject to discipline pursuant to the Osteopathic Medicine Act.

C. An osteopathic physician assistant requesting restoration from inactive status shall pay the current renewal fee and fulfill the requirement for renewal pursuant to the Osteopathic Medicine Act."

## **Chapter 90 Section 24 Laws 2016**

SECTION 24. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"OSTEOPATHIC PHYSICIAN ASSISTANTS--EXEMPTION FROM LICENSURE.--

A. An osteopathic physician assistant student enrolled in a physician assistant or osteopathic physician assistant educational program accredited by the commission on accreditation of allied health education programs or by its successor shall be exempt from licensure while functioning as an osteopathic physician assistant student.

B. An osteopathic physician assistant employed by the federal government while performing duties incident to that employment is not required to be licensed as an osteopathic physician assistant pursuant to the Osteopathic Medicine Act."

## **Chapter 90 Section 25 Laws 2016**

SECTION 25. A new section of Chapter 61, Article 10 NMSA 1978 is enacted to read:

"RESPONSIBILITY.--Every osteopathic physician using, supervising or employing a registered osteopathic physician assistant shall be individually responsible and liable for the performance of the acts and omissions delegated to the osteopathic

physician assistant. Nothing in the Osteopathic Medicine Act shall be construed to relieve the osteopathic physician assistant of responsibility and liability for any of the osteopathic physician assistant's own acts and omissions. An osteopathic physician assistant shall be supervised by an osteopathic physician in accordance with board rules."

## **Chapter 90 Section 26 Laws 2016**

SECTION 26. Section 61-10-22 NMSA 1978 (being Laws 1979, Chapter 36, Section 2, as amended) is amended to read:

"61-10-22. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of osteopathic medicine is terminated on July 1, 2021 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Osteopathic Medicine Act until July 1, 2022. Effective July 1, 2022, the Osteopathic Medicine Act is repealed."

## **Chapter 90 Section 27 Laws 2016**

SECTION 27. Section 61-11B-3 NMSA 1978 (being Laws 1993, Chapter 191, Section 3) is amended to read:

"61-11B-3. PHARMACIST CLINICIAN PRESCRIPTIVE AUTHORITY.--

A. A pharmacist clinician planning to exercise prescriptive authority in practice shall have on file at the place of practice written guidelines or protocol. The guidelines or protocol shall authorize a pharmacist clinician to exercise prescriptive authority and shall be established and approved by a practitioner in accordance with regulations adopted by the board. A copy of the written guidelines or protocol shall be on file with the board. The practitioner who is a party to the guidelines or protocol shall be in active practice and the prescriptive authority that the practitioner grants to a pharmacist clinician shall be within the scope of the practitioner's current practice.

B. The guidelines or protocol required by Subsection A of this section shall include:

(1) a statement identifying the practitioner authorized to prescribe dangerous drugs and the pharmacist clinician who is a party to the guidelines or protocol;

(2) a statement of the types of prescriptive authority decisions that the pharmacist clinician is authorized to make, which may include:

(a) a statement of the types of diseases, dangerous drugs or dangerous drug categories involved and the type of prescriptive authority authorized in each case; and

(b) a general statement of the procedures, decision criteria or plan the pharmacist clinician is to follow when exercising prescriptive authority;

(3) a statement of the activities the pharmacist clinician is to follow in the course of exercising prescriptive authority, including documentation of decisions made and a plan for communication or feedback to the authorizing practitioner concerning specific decisions made. Documentation may occur on the prescriptive record, patient profile, patient medical chart or in a separate log book; and

(4) a statement that describes appropriate mechanisms for reporting to the practitioner monitoring activities and results.

C. The written guidelines or protocol shall be reviewed and shall be revised every two years if necessary.

D. A pharmacist clinician planning to exercise prescriptive authority in practice shall be authorized to monitor dangerous drug therapy.

E. The board shall adopt regulations to carry out the provisions of the Pharmacist Prescriptive Authority Act.

F. For the purpose of the Pharmacist Prescriptive Authority Act, the New Mexico medical board and the board of osteopathic medicine shall adopt rules concerning the guidelines and protocol for their respective practitioners defined in Subsection D of Section 61-11B-2 NMSA 1978."

## **Chapter 90 Section 28 Laws 2016**

SECTION 28. TEMPORARY PROVISION--BOARD OF OSTEOPATHIC MEDICAL EXAMINERS--BOARD OF OSTEOPATHIC MEDICINE.--The name of the board of osteopathic medical examiners is changed to the "board of osteopathic medicine". On the effective date of this act, all references in law to the board of osteopathic medical examiners shall be construed to be references to the board of osteopathic medicine. All references in law to the chair or members of the board of osteopathic medical examiners shall be construed to be references to the chair or members of the board of osteopathic medicine.

## **Chapter 90 Section 29 Laws 2016**

SECTION 29. REPEAL.--Sections 61-10-1, 61-10-13 and 61-10A-1 through 61-10A-7 NMSA 1978 (being Laws 1933, Chapter 117, Sections 1 and 11, Laws 1979, Chapter 26, Sections 1 through 4, Laws 1989, Chapter 9, Section 8, Laws 1997, Chapter 187, Sections 12 and 13 and Laws 1979, Chapter 26, Sections 5 through 7, as amended) are repealed.

## **Chapter 90 Section 30 Laws 2016**

SECTION 30. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2016.

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Senate Bill 78, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 91**

AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING RECREATIONAL OFF-HIGHWAY AND ALL-TERRAIN VEHICLES TO DRIVE ON PAVED ROADS.

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

### **Chapter 91 Section 1 Laws 2016**

SECTION 1. Section 66-3-1011 NMSA 1978 (being Laws 1975, Chapter 240, Section 11, as amended) is amended to read:

"66-3-1011. OPERATION ON STREETS OR HIGHWAYS--PROHIBITED AREAS.--

A. A person shall not operate an off-highway motor vehicle on any:

(1) limited access highway or freeway at any time; or

(2) paved street or highway except as provided in Subsection B, C or D of this section.

B. Off-highway motor vehicles may cross streets or highways, except limited access highways or freeways, if the crossings are made after coming to a complete stop prior to entering the roadway. Off-highway motor vehicles shall yield the right of way to oncoming traffic and shall begin a crossing only when it can be executed safely and then cross in the most direct manner as close to a perpendicular angle as possible.

C. If authorized by ordinance or resolution of a local authority or the state transportation commission, a recreational off-highway vehicle or an all-terrain vehicle may be operated on a paved street or highway owned and controlled by the authorizing entity if:



(1) the vehicle has one or more headlights and one or more taillights that comply with the Off-Highway Motor Vehicle Act;

(2) the vehicle has brakes, mirrors and mufflers;

(3) the operator has a valid driver's license, instruction permit or provisional license and an off-highway motor vehicle safety permit;

(4) the operator is insured in compliance with the provisions of the Mandatory Financial Responsibility Act; and

(5) the operator of the vehicle is wearing eye protection and a safety helmet that comply with the Off-Highway Motor Vehicle Act.

D. By ordinance or resolution, a local authority or state transportation commission may establish separate speed limits and operating restrictions for off-highway vehicles where they are authorized to operate on paved streets or highways pursuant to Subsection C of this section.

E. A person shall not operate an off-highway motor vehicle on state game commission-owned, -controlled or -administered land except as specifically allowed pursuant to Chapter 17, Article 6 NMSA 1978.

F. A person shall not operate an off-highway motor vehicle on land owned, controlled or administered by the state parks division of the energy, minerals and natural resources department, pursuant to Chapter 16, Article 2 NMSA 1978, except in areas designated by and permitted by rules adopted by the secretary of energy, minerals and natural resources.

G. Unless authorized, a person shall not:

(1) remove, deface or destroy any official sign installed by a state, federal, local or private land management agency; or

(2) install any off-highway motor vehicle-related sign."

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Senate Bill 270, aa

Approved March 9, 2016

## **LAWS 2016, CHAPTER 92**

AN ACT

RELATING TO UNEMPLOYMENT COMPENSATION; REDUCING THE CONTRIBUTION RATE OF CERTAIN EMPLOYERS BASED ON THE EMPLOYER'S EXPERIENCE HISTORY; CAPPING THE PERCENTAGE POINT INCREASE IN AN EMPLOYER'S CONTRIBUTION AND EXCESS CLAIMS RATES.

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

## **Chapter 92 Section 1 Laws 2016**

SECTION 1. Section 51-1-11 NMSA 1978 (being Laws 2013, Chapter 133, Section 3) is amended 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 was 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 and, for each calendar year beginning in calendar year 2017, then multiplying that product by the employer's experience history factor as determined under Subsection I 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. For each calendar year beginning in calendar year 2017, if, as of the computation date for that calendar year, an employer has been a contributing employer throughout the preceding twenty-four months, the employer's experience history factor shall be determined as of the computation date and shall be based on the employer's reserve. The employer's reserve shall be calculated as the difference between all of the employer's previous years' contribution payments and all of the employer's previous years' benefit charges, divided by the average of the employer's annual payrolls for the immediately preceding fiscal years, up to a maximum of three fiscal years.

The employer's experience

history factor is:

6.0% and over      0.4000

5.0%-5.9%      0.5000

4.0%-4.9%      0.6000

3.0%-3.9%      0.7000

2.0%-2.9%      0.8000

1.0%-1.9%      0.9000

0.0%-0.9%      0.9500

1.0000.

J. 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.

K. Effective calendar year 2017, any other provision of law notwithstanding, an employer's contribution rate plus the employer's excess claims rate, if any, shall increase by no more than two percentage points from one calendar year to the next.

L. 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.

M. 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.

N. 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.

O. 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 L of this section.

P. 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.

Q. 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 92 Section 2 Laws 2016**

SECTION 2. TEMPORARY PROVISION--PARTIAL-YEAR COMPUTATION.--On July 1, 2016, the workforce solutions department shall calculate an employer's rate for the period from July 1, 2016 through December 31, 2016 by applying the employer's experience history factor as determined under Subsection I of Section 51-1-11 NMSA 1978 and by using the computation date period applicable to calendar year 2016.

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HJC/HBEC/House Bill 283

Approved March 9, 2016

## **LAWS 2016, HOUSE JOINT RESOLUTION 15**

## A JOINT RESOLUTION

RATIFYING AND APPROVING THE DONATION AND TRANSFER OF STATE-OWNED REAL PROPERTY AT 301 MILLS AVENUE, LAS VEGAS, NEW MEXICO, TO THE CITY OF LAS VEGAS.

WHEREAS, the facilities management division of the general services department owns real property located at 301 Mills Avenue, Las Vegas, New Mexico, referred to as the "301 Mills Avenue" property; and

WHEREAS, the city of Las Vegas initially donated the 301 Mills Avenue property to the state for the purpose of housing a state agency; and

WHEREAS, the state no longer uses the 301 Mills Avenue property, and the facilities management division has determined that the property is no longer needed by the state for any purpose and that, therefore, the division desires to donate and transfer the property to the city of Las Vegas; and

WHEREAS, the city of Las Vegas desires the 301 Mills Avenue property as a location for city offices and governmental functions; and

WHEREAS, the 301 Mills Avenue property has a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, Section 13-6-2 NMSA 1978 provides that upon a written determination justifying the disposition, a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, in Rule 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation; and

WHEREAS, the 301 Mills Avenue property is more particularly described as:

"A tract of land located between First Street and Second Street in the city of Las Vegas, San Miguel County, New Mexico. Said tract is bounded on the north by Mills Road and being more particularly described as follows: Beginning for a tie at the New Mexico state "Golf" Triangulation Station, thence S 31° 19' E a distance of 2492.33 feet to a surveyor's monument being the SE'ly corner and true point of beginning of this tract. Thence along the S'ly boundary of this tract the following courses: N 84° 34' W a distance of 97.24 feet to a surveyor's monument; S 67° 04' W a distance of 64.04 feet to a surveyor's monument; S 67°

54' W a distance of 147.25 feet to a surveyor's monument being the SW'ly corner of this tract. Thence along the E'ly R/W of Second Street along a curve with a radius of 273.97 feet an arc distance of 108.86 feet to a surveyor's monument at a point of tangency. Thence continuing along said R/W N 03° 55' W a distance of 144.20 feet to a surveyor's monument being the NW'ly corner of this tract. Thence along the S'ly R/W of Mills Road N 88° 12' E a distance of 285.75 feet to a surveyor's monument being the NE'ly corner of this tract. Thence along the W'ly R/W of First Street along a curve with a radius of 429.28 feet, with a chord of S 13° 45' 47" E a distance of 191.29 feet, with an arc distance of 192.91 feet to the true point of beginning of this tract. Said tract contains 1.383 acres, more or less.

The above-described tract is shown on a plat prepared by Morris A. Apodaca, titled Proposed State Police Building, dated July 30, 1979, plat no. LS-79-72.";

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed donation and transfer of the real property at 301 Mills Avenue, Las Vegas, New Mexico, from the state to the city of Las Vegas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the real property at 301 Mills Avenue, Las Vegas, New Mexico, from the state to the city of Las Vegas be contingent upon agreement by the parties in the conveyance document that if the city of Las Vegas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall be reconveyed by the city to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the capitol buildings planning commission and the city manager of the city of Las Vegas, New Mexico.

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House Joint Resolution 15, aa

## **LAWS 2016, HOUSE JOINT RESOLUTION 17**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE DONATION AND TRANSFER OF TWO TRACTS OF STATE-OWNED REAL PROPERTY THAT ARE CURRENTLY LEASED BY THE VILLAGE OF LOS LUNAS AND OTHERS FOR MUNICIPAL AND RELATED PURPOSES TO THE VILLAGE OF LOS LUNAS.

WHEREAS, the facilities management division of the general services department owns real property located at 660 Main Street, Los Lunas, New Mexico, referred to as the "Don Pasqual" real property, which real property is currently leased by the village of Los Lunas for its administrative offices, road maintenance yard and senior center and by first choice for the care of sick and indigent citizens of the village and of Valencia county; and

WHEREAS, the facilities management division of the general services department owns real property located on highway 314 in Los Lunas, New Mexico, referred to as the "Highway 314" real property, which real property is currently leased in part by the village of Los Lunas, the Los Lunas public school district and Valencia county for a park, recreational facilities, a sports complex, an animal control shelter and a road and bus maintenance compound, including numerous improvements; and

WHEREAS, Section 13-6-2 NMSA 1978 provides that upon a written determination, a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, the Don Pasqual and Highway 314 real properties are not needed by the state of New Mexico for any purpose and they may be donated and transferred; and

WHEREAS, the facilities management division of the general services department has made a written determination that it would be in the best interest of the state of New Mexico for the state to donate and transfer the Don Pasqual and Highway 314 real properties to the village of Los Lunas for the continued use by the village, the Los Lunas public school district and Valencia county as described in this resolution; and

WHEREAS, as a condition of the donation and transfer of the Highway 314 real property, the village of Los Lunas shall provide for the Los Lunas public school district and Valencia county to continue uninterruptedly their current use of the Highway 314 real property; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to ratification and approval by the state legislature; and

WHEREAS, in Rule 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation; and

WHEREAS, the Don Pasqual and Highway 314 real properties each separately has a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, the Don Pasqual real property is described as follows:

Beginning at the Southwest Corner of the herein described tract of land whence the U.S.G.S. Triangulation Station "Luna-Gallup 2" bears N 16°19'29" W, 1,613.88 feet, thence from said point of beginning the following:

N 53° 34' 59" E, 583.12 feet, Thence

N 37° 07' 42" W, 20.00 feet, Thence

N 53° 34' 43" E, 266.61 feet, Thence along a curve to the left, through a central angle of 36°48'30", with a radius of 250.99 feet a length of 161.24 feet the chord bearing of which is in N 35°10'44" E, and the chord distance of 158.48 feet, Thence

N 16° 46' 29" E, 379.57 feet, Thence

S 68° 59' 23" E, 368.10 feet, Thence

S 22° 12' 58" W, 1,293.54 feet, Thence

S 26° 23' 07" W, 128.21 feet, Thence

S 22° 27' 51" W, 93.24 feet, Thence along a curve to the right, through a central angle of 72° 36' 43", with a radius of 18.35 feet, a length of 23.26 feet the chord bearing of which is S 76° 11' 33" W, and the chord distance of 21.73 feet, thence

Along a curve to the right through a central angle of 3°17'11", with a radius of 3,760.00 feet, a length of 215.67 feet, the chord bearing of which is N 48°24'52" W, and the chord distance of 215.64 feet,

Thence

Along a curve to the left, through a central angle of 4°18'16", with a radius of 3,880.00 feet, a length of 291.49 feet, the chord bearing of which is N 48°55'24" W, and the chord distance of 291.42 feet,

Thence

N 51° 04' 32" W, 180.41 feet, Thence

N 38° 55' 28" E, 30.00 feet, Thence

N 51° 04' 32" W, 60.00 feet, Thence

S 38° 55' 28" E, 30.00 feet, Thence

N 51° 04' 32" W, 58.37 feet to the point and place of beginning; and

Containing 16.21 ac. more or less; and

WHEREAS, the Highway 314 real property is described as follows:

Beginning at the Northwest Corner of the herein described Tract of Land whence the U.S.G.S. Brass Cap "Gallup-Luna 2" bears N 14° 01' 49" W, 6,538.23 feet, thence from said point of beginning the following:

S 79° 47' 32" E, 1,099.93 feet, Thence

S 10° 24' 47" W, 3,496.89 feet, Thence

N 78° 18' 06" W, 1,124.74 feet, Thence

N 10° 49' 06" E, 3,467.80 feet to the point and place of beginning; and

Containing 88.91 ac. more or less; and

WHEREAS, the state shall retain appropriate rights of way and easements, and the donation and transfer shall be subject to reservations, restrictions or easements of record;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the donation and transfer of the Don Pasqual real property from the state to the village of Los Lunas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the Don Pasqual real property be contingent upon agreement by the parties in the conveyance document that, if the village of Los Lunas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall revert back to the state; and

BE IT FURTHER RESOLVED that the donation and transfer of the Highway 314 real property from the state to the village of Los Lunas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the Highway 314 real property be contingent upon agreement by the parties in the conveyance document that, if the village of Los Lunas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall revert back to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the capitol buildings planning commission and the mayor of the village of Los Lunas.

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House Joint Resolution 17, aa

## **LAWS 2016, HOUSE JOINT RESOLUTION 21**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE OF REAL PROPERTY OWNED BY THE PECOS VALLEY REGIONAL EDUCATION COOPERATIVE AND USED FOR ITS MAIN OFFICES ON THE CONDITION THAT THE COOPERATIVE CONCURRENTLY PURCHASE OR LEASE A REPLACEMENT REAL PROPERTY.

WHEREAS, the Pecos Valley regional education cooperative number eight, referred to as the "cooperative", owns the real property, together with buildings and improvements, at 2218 W. Grand Avenue, Artesia, New Mexico 88210, referred to as the "2218 W. Grand property", which serves as the main offices of the cooperative; and

WHEREAS, the 2218 W. Grand property is not sufficient to house all of the cooperative's operations, including the southeastern New Mexico educational resource center; and

WHEREAS, as of November 3, 2015, the 2218 W. Grand property was appraised at a value of four hundred thousand dollars (\$400,000); and

WHEREAS, on January 19, 2016, the regional education coordinating council for the cooperative adopted a resolution determining that it is in the best interests of the cooperative to sell the 2218 W. Grand property and acquire a replacement building by purchase or lease and approving the sale of the 2218 W. Grand property, pursuant to any of the means provided in Subsection B of Section 13-6-2 NMSA 1978, for a price that is equal to or exceeds its appraised value, subject to approval by the New Mexico legislature and conditioned upon the concurrent purchase or lease of a replacement building to serve as the cooperative's main offices; and

WHEREAS, pursuant to Section 22-2B-3 NMSA 1978, the cooperative is an individual state agency administratively attached to the public education department and pursuant to the rules of that department, of which there are none pertinent to this resolution, 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; and



WHEREAS, Subsection B of Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by any of several prescribed means; and

WHEREAS, Section 13-6-3 NMSA 1978 provides that any sale, trade or lease of real property belonging to a state agency for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to ratification and approval by the state legislature; and

WHEREAS, the legal description of the 2218 W. Grand property is:

"The East 265.4 feet of Block 6 of the Gunter Subdivision, to the City of Artesia, Eddy County, New Mexico, as the same apperas [sic] on the official, filed plat thereof on file in the Office of the County Clerk of Eddy County, New Mexico and all buildings and improvements thereon.";

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of the 2218 W. Grand property by the cooperative at or above its appraised value is hereby ratified and approved on the condition that the cooperative, concurrently with the sale, purchase or lease a replacement building for the main offices of the cooperative; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of public education, the executive director of the cooperative and the capitol buildings planning commission.

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House Joint Resolution 21

## **LAWS 2016, SENATE JOINT RESOLUTION 9**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE DONATION AND TRANSFER OF TWO TRACTS OF STATE-OWNED REAL PROPERTY THAT ARE CURRENTLY LEASED BY THE VILLAGE OF LOS LUNAS AND OTHERS FOR MUNICIPAL AND RELATED PURPOSES TO THE VILLAGE OF LOS LUNAS.

WHEREAS, the facilities management division of the general services department owns real property located at 660 Main Street, Los Lunas, New Mexico, referred to as the "Don Pasqual" real property, which real property is currently leased by the village of Los Lunas for its administrative offices, road maintenance yard and senior center and by first choice for the care of sick and indigent citizens of the village and of Valencia county; and

WHEREAS, the facilities management division of the general services department owns real property located on highway 314 in Los Lunas, New Mexico, referred to as the "Highway 314" real property, which real property is currently leased in part by the village of Los Lunas, the Los Lunas public school district and Valencia county for a park, recreational facilities, a sports complex, an animal control shelter and a road and bus maintenance compound, including numerous improvements; and

WHEREAS, Section 13-6-2 NMSA 1978 provides that upon a written determination, a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, the Don Pasqual and Highway 314 real properties are not needed by the state of New Mexico for any purpose and they may be donated and transferred; and

WHEREAS, the facilities management division of the general services department has made a written determination that it would be in the best interest of the state of New Mexico for the state to donate and transfer the Don Pasqual and Highway 314 real properties to the village of Los Lunas for the continued use by the village, the Los Lunas public school district and Valencia county as described in this resolution; and

WHEREAS, as a condition of the donation and transfer of the Highway 314 real property, the village of Los Lunas shall provide for the Los Lunas public school district and Valencia county to continue uninterruptedly their current use of the Highway 314 real property; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to ratification and approval by the state legislature; and

WHEREAS, in Rule 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation; and

WHEREAS, the Don Pasqual and Highway 314 real properties each separately has a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, the Don Pasqual real property is described as follows:

Beginning at the Southwest Corner of the herein described tract of land whence the U.S.G.S. Trangulation Station "Luna-Gallup 2" bears N 16°19'29" W, 1,613.88 feet, thence from said point of beginning the following:

N 53° 34' 59" E, 583.12 feet, Thence

N 37° 07' 42" W, 20.00 feet, Thence

N 53° 34' 43" E, 266.61 feet, Thence along a curve to the left, through a central angle of 36°48'30", with a radius of 250.99 feet a length of 161.24 feet the chord bearing of which is in N 35°10'44" E, and the chord distance of 158.48 feet,  
Thence

N 16° 46' 29" E, 379.57 feet, Thence

S 68° 59' 23" E, 368.10 feet, Thence

S 22° 12' 58" W, 1,293.54 feet, Thence

S 26° 23' 07" W, 128.21 feet, Thence

S 22° 27' 51" W, 93.24 feet, Thence along a curve to the right, through a central angle of 72° 36' 43", with a radius of 18.35 feet, a length of 23.26 feet the chord bearing of which is S 76° 11' 33" W, and the chord distance of 21.73 feet, thence

Along a curve to the right through a central angle of 3°17'11", with a radius of 3,760.00 feet, a length of 215.67 feet, the chord bearing of which is N 48°24'52" W, and the chord distance of 215.64 feet,

Thence

Along a curve to the left, through a central angle of 4°18'16", with a radius of 3,880.00 feet, a length of 291.49 feet, the chord bearing of which is N 48°55'24" W, and the chord distance of 291.42 feet,

Thence

N 51° 04' 32" W, 180.41 feet, Thence

N 38° 55' 28" E, 30.00 feet, Thence

N 51° 04' 32" W, 60.00 feet, Thence

S 38° 55' 28" E, 30.00 feet, Thence

N 51° 04' 32" W, 58.37 feet to the point and place of beginning; and

Containing 16.21 ac. more or less; and

WHEREAS, the Highway 314 real property is described as follows:

Beginning at the Northwest Corner of the herein described Tract of Land whence the U.S.G.S. Brass Cap "Gallup-Luna 2" bears N 14° 01' 49" W, 6,538.23 feet, thence from said point of beginning the following:

S 79° 47' 32" E, 1,099.93 feet, Thence

S 10° 24' 47" W, 3,496.89 feet, Thence

N 78° 18' 06" W, 1,124.74 feet, Thence

N 10° 49' 06" E, 3,467.80 feet to the point and place of beginning; and

Containing 88.91 ac. more or less; and

WHEREAS, the state shall retain appropriate rights of way and easements, and the donation and transfer shall be subject to reservations, restrictions or easements of record;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the donation and transfer of the Don Pasqual real property from the state to the village of Los Lunas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the Don Pasqual real property be contingent upon agreement by the parties in the conveyance document that if the village of Los Lunas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall revert back to the state; and

BE IT FURTHER RESOLVED that the donation and transfer of the Highway 314 real property from the state to the village of Los Lunas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the Highway 314 real property be contingent upon agreement by the parties in the conveyance document that if the village of Los Lunas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall revert back to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the capitol buildings planning commission and the mayor of the village of Los Lunas.

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Senate Joint Resolution 9, aa

**LAWS 2016, SENATE JOINT RESOLUTION 10**

## A JOINT RESOLUTION

RATIFYING AND APPROVING THE DONATION AND TRANSFER OF STATE-OWNED REAL PROPERTY IN THE VILLAGE OF LOS LUNAS, CURRENTLY LEASED FOR THE VALENCIA COUNTY COURTHOUSE, TO VALENCIA COUNTY FOR THE CONTINUED OPERATION OF A COURTHOUSE.

WHEREAS, Section 34-6-24 NMSA 1978 requires that in each county the district court shall be held at the county seat and that each board of county commissioners will provide adequate quarters for the operation of the district court; and

WHEREAS, since 2008, the Valencia county district courthouse has been located on a ten-acre tract of state real property in the village of Los Lunas pursuant to a lease from the state; and

WHEREAS, Section 13-6-2 NMSA 1978 provides that upon a written determination a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, the district courthouse real property is not needed by the state of New Mexico for any purpose and it may be donated and transferred; and

WHEREAS, the facilities management division of the general services department has made a written determination that it would be in the best interest of the state of New Mexico for the state to donate and transfer the district courthouse real property to the county of Valencia for the continued use as a district courthouse; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to ratification and approval by the state legislature; and

WHEREAS, in Rule 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation; and

WHEREAS, the district courthouse real property has a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, the district courthouse real property, consisting of ten acres more or less at the southwest corner of state road 314 and Morris road in Los Lunas, New Mexico, is described as follows:

A certain parcel of land situate within Tract 4, Harlan Ranches as the same is shown and designated on the plat, filed in the office of the County Clerk of Valencia County, New Mexico on the 7th day of January, 1938 (C-15-64), also being designated as a portion of Tract 2B1A1, Middle Rio Grande Conservancy

District Property Map No. 80, situate within the San Clemente Grant, Projected Section 33, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, and being more particularly described by metes and bounds as follows:

Beginning at the northwest corner of the parcel herein described, a point on the westerly right-of-way line of New Mexico state highway 314, as the same is shown and designated on New Mexico State Highway Commission Right-of-Way Map, New Mexico Project

No. IN-025-3(1) 192 dated July 19, 1956, whence the northeast corner of said Tract 4 and said Tract 2B1A1 bears N 101 06' 00" E, a distance of 20.00 feet and whence NGS Control Station P423 bears N 101 24' 06" E, a distance of 1,065.59 feet;

Thence, continuing along said westerly right-of-way line of New Mexico State Highway No. 314, S 101 06' 00" W, a distance of 831.74 feet, to the southeast corner of the parcel herein described;

Thence N 851 20' 07" W, a distance of 518.79 feet, to the southwest corner of the parcel herein described;

Thence N 111 32' 00" E, a distance of 893.53 feet, to the northwest corner of the parcel herein described;

Thence S 781 28' 00" E, a distance of 494.26 feet, to the northeast corner and point of beginning of the parcel herein described and containing 10.000 acres more or less; and

WHEREAS, the state shall retain appropriate rights of way and easements, and the donation and transfer shall be subject to reservations, restrictions or easements of record;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the donation and transfer of the district courthouse real property in Los Lunas, New Mexico, from the state to the county of Valencia be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the district courthouse real property in Los Lunas, New Mexico, from the state to the county of Valencia be contingent upon agreement by the parties in the conveyance document that if the county of Valencia ever decides that the real property is no longer needed for any county purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall revert back to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the capitol buildings planning commission and the board of county commissioners of Valencia county.

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Senate Joint Resolution 10, aa

## **LAWS 2016, SENATE JOINT RESOLUTION 13**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE DONATION AND TRANSFER OF STATE-OWNED REAL PROPERTY AT 301 MILLS AVENUE, LAS VEGAS, NEW MEXICO, TO THE CITY OF LAS VEGAS.

WHEREAS, the facilities management division of the general services department owns real property located at 301 Mills Avenue, Las Vegas, New Mexico, referred to as the "301 Mills Avenue" property; and

WHEREAS, the city of Las Vegas initially donated the 301 Mills Avenue property to the state for the purpose of housing a state agency; and

WHEREAS, the state no longer uses the 301 Mills Avenue property, and the facilities management division has determined that the property is no longer needed by the state for any purpose and that, therefore, the division desires to donate and transfer the property to the city of Las Vegas; and

WHEREAS, the city of Las Vegas desires the 301 Mills Avenue property as a location for city offices and governmental functions; and

WHEREAS, the 301 Mills Avenue property has a value in excess of one hundred thousand dollars (\$100,000); and

WHEREAS, Section 13-6-2 NMSA 1978 provides that upon a written determination justifying the disposition, a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a local public body; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, in Rule 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation; and

WHEREAS, the 301 Mills Avenue property is more particularly described as:

"A tract of land located between First Street and Second Street in the city of Las Vegas, San Miguel County, New Mexico. Said tract is bounded on the north by Mills Road and being more particularly described as follows: Beginning for a tie at the New Mexico state "Golf" Triangulation Station, thence S 31° 19' E a distance of 2492.33 feet to a surveyor's monument being the SE'ly corner and true point of beginning of this tract. Thence along the S'ly boundary of this tract the following courses: N 84° 34' W a distance of 97.24 feet to a surveyor's monument; S 67° 04' W a distance of 64.04 feet to a surveyor's monument; S 67° 54' W a distance of 147.25 feet to a surveyor's monument being the SW'ly corner of this tract. Thence along the E'ly R/W of Second Street along a curve with a radius of 273.97 feet an arc distance of 108.86 feet to a surveyor's monument at a point of tangency. Thence continuing along said R/W N 03° 55' W a distance of 144.20 feet to a surveyor's monument being the NW'ly corner of this tract. Thence along the S'ly R/W of Mills Road N 88° 12' E a distance of 285.75 feet to a surveyor's monument being the NE'ly corner of this tract. Thence along the W'ly R/W of First Street along a curve with a radius of 429.28 feet, with a chord of S 13° 45' 47" E a distance of 191.29 feet, with an arc distance of 192.91 feet to the true point of beginning of this tract. Said tract contains 1.383 acres, more or less.

The above-described tract is shown on a plat prepared by Morris A. Apodaca, titled Proposed State Police Building, dated July 30, 1979, plat no. LS-79-72.";

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed donation and transfer of the real property at 301 Mills Avenue, Las Vegas, New Mexico, from the state to the city of Las Vegas be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the donation and transfer of the real property at 301 Mills Avenue, Las Vegas, New Mexico, from the state to the city of Las Vegas be contingent upon agreement by the parties in the conveyance document that if the city of Las Vegas ever decides that the real property is no longer needed for any municipal purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall be reconveyed by the city to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the capitol buildings planning commission and the city manager of the city of Las Vegas, New Mexico.

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Senate Joint Resolution 13, aa

**LAWS 2016, SENATE JOINT RESOLUTION 19**



## A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE OF REAL PROPERTY OWNED BY THE PECOS VALLEY REGIONAL EDUCATION COOPERATIVE AND USED FOR ITS MAIN OFFICES ON THE CONDITION THAT THE COOPERATIVE CONCURRENTLY PURCHASE OR LEASE A REPLACEMENT REAL PROPERTY.

WHEREAS, the Pecos Valley regional education cooperative number eight, referred to as the "cooperative", owns the real property, together with buildings and improvements, at 2218 W. Grand Avenue, Artesia, New Mexico 88210, referred to as the "2218 W. Grand property", which serves as the main offices of the cooperative; and

WHEREAS, the 2218 W. Grand property is not sufficient to house all of the cooperative's operations, including the southeastern New Mexico educational resource center; and

WHEREAS, as of November 3, 2015, the 2218 W. Grand property was appraised at a value of four hundred thousand dollars (\$400,000); and

WHEREAS, on January 19, 2016, the regional education coordinating council for the cooperative adopted a resolution determining that it is in the best interests of the cooperative to sell the 2218 W. Grand property and acquire a replacement building by purchase or lease and approving the sale of the 2218 W. Grand property, pursuant to any of the means provided in Subsection B of Section 13-6-2 NMSA 1978, for a price that is equal to or exceeds its appraised value, subject to approval by the New Mexico legislature and conditioned upon the concurrent purchase or lease of a replacement building to serve as the cooperative's main offices; and

WHEREAS, pursuant to Section 22-2B-3 NMSA 1978, the cooperative is an individual state agency administratively attached to the public education department and pursuant to the rules of that department, of which there are none pertinent to this resolution, 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; and

WHEREAS, Subsection B of Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by any of several prescribed means; and

WHEREAS, Section 13-6-3 NMSA 1978 provides that any sale, trade or lease of real property belonging to a state agency for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to ratification and approval by the state legislature; and

WHEREAS, the legal description of the 2218 W. Grand property is:

"The East 265.4 feet of Block 6 of the Gunter Subdivision, to the City of Artesia, Eddy County, New Mexico, as the same apperas [sic] on the official, filed plat thereof on file in the Office of the County Clerk of Eddy County, New Mexico and all buildings and improvements thereon.";

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of the 2218 W. Grand property by the cooperative at or above its appraised value is hereby ratified and approved on the condition that the cooperative, concurrently with the sale, purchase or lease a replacement building for the main offices of the cooperative; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of public education, the executive director of the cooperative and the capitol buildings planning commission.

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Senate Joint Resolution 19

## **2016 OFFICIAL ROSTER OF THE STATE OF NEW MEXICO**

**OFFICIAL ROSTER  
OF THE  
STATE OF NEW MEXICO**

**UNITED STATES SENATORS**

Martin Heinrich, Democrat, Albuquerque  
Tom Udall, Democrat, Santa Fe

**UNITED STATES REPRESENTATIVES**

Michelle Lujan Grisham, Democrat, 1<sup>st</sup> Congressional District - Albuquerque  
Steve Pearce, Republican, 2<sup>nd</sup> Congressional District - Hobbs  
Ben R. Lujan, Democrat, 3<sup>rd</sup> Congressional District - Santa Fe

**STATE OFFICIALS**

Susana Martinez, Republican	Governor
John A. Sanchez, Republican	Lieutenant Governor
Brad Winter, Republican	Secretary of State
Timothy M. Keller, Democrat	State Auditor
Tim Eichenberg, Democrat	State Treasurer
Hector H. Balderas, Democrat	Attorney General
Aubrey Dunn, Republican	Commissioner of Public Lands
Karen Louise Montoya, Democrat	Public Regulation Commissioner, District 1
Patrick H. Lyons, Republican	Public Regulation Commissioner, District 2
Valerie L. Espinoza, Democrat	Public Regulation Commissioner, District 3
Lynda M. Lovejoy, Democrat	Public Regulation Commissioner, District 4
Sandy R. Jones, Democrat	Public Regulation Commissioner, District 5

**JUSTICES OF THE SUPREME COURT**

Barbara J. Vigil, Chief Justice  
Edward L. Chavez  
Charles W. Daniels  
Petra Jimenez Maes  
Judith Nakamura

**JUDGES OF THE COURT OF APPEALS**

Michael E. Vigil, Chief Judge  
Roderick T. Kennedy  
James J. Wechsler  
Michael D. Bustamante  
Jonathan B. Sutin  
Stephen French  
Linda M. Vanzi  
Timothy L. Garcia  
M. Monica Zamora  
J. Miles Hanisee

**DISTRICT COURTS  
DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT  
Santa Fe, Los Alamos & Rio Arriba Counties**

Division	I	Francis J. Mathew	Santa Fe
Division	II	Sarah M. Singleton	Santa Fe
Division	III	Raymond Z. Ortiz	Santa Fe
Division	IV	Sylvia F. LaMar	Santa Fe
Division	V	Jennifer Attrep	Santa Fe
Division	VI	David K. Thomson	Santa Fe
Division	VII	T. Glenn Ellington	Santa Fe
Division	VIII	Mary L. Marlowe Sommer	Santa Fe
Division	IX	Matthew J. Wilson	Santa Fe

**SECOND JUDICIAL DISTRICT  
Bernalillo County**

Division	I	William Parnall	Albuquerque
Division	II	Stan Whitaker	Albuquerque
Division	III	Brett Loveless	Albuquerque
Division	IV	Beatrice Brickhouse	Albuquerque
Division	V	Nancy J. Franchini	Albuquerque
Division	VI	Briana Zamora	Albuquerque
Division	VII	John J. Romero	Albuquerque
Division	VIII	Cristina T. Jaramillo	Albuquerque
Division	IX	David Williams	Albuquerque
Division	X	Christina P. Argyres	Albuquerque
Division	XI	Gerard Lavelle	Albuquerque
Division	XII	Clay Campbell	Albuquerque
Division	XIII	Valerie A. Huling	Albuquerque
Division	XIV	Marie Ward	Albuquerque
Division	XV	Alan Malott	Albuquerque
Division	XVI	Carl Butkus	Albuquerque
Division	XVII	Nan G. Nash	Albuquerque
Division	XVIII	Denise Barela-Shepherd	Albuquerque
Division	XIX	Benjamin Chavez	Albuquerque
Division	XX	Jacqueline D. Flores	Albuquerque
Division	XXI	Alisa Hadfield	Albuquerque
Division	XXII	Deborah Davis Walker	Albuquerque
Division	XXIII	Shannon Bacon	Albuquerque
Division	XXIV	Debra Ramirez	Albuquerque
Division	XXV	Elizabeth Whitefield	Albuquerque
Division	XXVI	Charles W. Brown	Albuquerque
Division	XXVII	Victor S. Lopez	Albuquerque

**THIRD JUDICIAL DISTRICT  
Doña Ana County**

Division	I	Manuel I. Arrieta	Las Cruces
Division	II	Marci E. Beyer	Las Cruces
Division	III	Darren Murray Kugler	Las Cruces
Division	IV	Mary W. Rosner	Las Cruces
Division	V	Lisa C. Schultz	Las Cruces
Division	VI	James T. Martin	Las Cruces
Division	VII	Douglas R. Driggers	Las Cruces
Division	VIII	Fernando R. Macías	Las Cruces

**FOURTH JUDICIAL DISTRICT**  
**Guadalupe, Mora & San Miguel Counties**

Division	I	Gerald Baca	Las Vegas
Division	II	Abigail P. Aragon	Las Vegas
Division	III	Matthew J. Sandoval	Las Vegas

**FIFTH JUDICIAL DISTRICT**  
**Lea, Eddy & Chaves Counties**

Division	I	Raymond L. Romero	Carlsbad
Division	II	Freddie J. Romero	Roswell
Division	III	William G.W. Shoobridge	Lovington
Division	IV	Mark T. Sanchez	Lovington
Division	V	Jane Shuler Gray	Carlsbad
Division	VI	James M. Hudson	Roswell
Division	VII	Gary L. Clingman	Lovington
Division	VIII	Kea W. Riggs	Roswell
Division	IX	Lisa Riley	Carlsbad
Division	X	Steven L. Bell	Chaves
Division	XI	Lee A. Kirksey	Lea

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo & Luna Counties**

Division	I	Henry R. Quintero	Silver City
Division	II	Jennifer Ellen DeLaney	Deming
Division	III	J. C. Robinson	Silver City
Division	IV	Daniel Viramontes	Deming

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro & Torrance Counties**

Division	I	Mercedes C. Murphy	Socorro
Division	II	Matthew G. Reynolds	Socorro
Division	III	Kevin R. Sweazea	Estancia

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union & Taos Counties**

Division	I	Emilio Chavez	Raton
Division	II	Sarah C. Backus	Taos
Division	III	Jeff F. McElroy	Taos

**NINTH JUDICIAL DISTRICT**  
**Curry & Roosevelt Counties**

Division	I	Matthew E. Chandler	Clovis
Division	II	Drew D. Tatum	Clovis
Division	III	Fred Van Soelen	Clovis, Portales
Division	IV	Donna J. Mowrer	Clovis, Portales
Division	V	David P. Reeb	Portales

**TENTH JUDICIAL DISTRICT**  
**Quay, DeBaca, & Harding Counties**

Division	I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT  
McKinley & San Juan Counties**

Division	I	Bradford J. Dalley	Farmington
Division	II	Louis E. DePauli, Jr.	Gallup
Division	III	Sandra A. Price	Farmington
Division	IV	John Arthur Dean, Jr.	Farmington
Division	V	Lyndy D. Bennett	Gallup
Division	VI	Daylene A. Marsh	Aztec
Division	VII	Robert A. Aragon	Gallup
Division	VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT  
Lincoln & Otero Counties**

Division	I	Jerry H. Ritter, Jr.	Alamogordo
Division	II	James Waylon Counts	Alamogordo
Division	III	Daniel A. Bryant	Carrizozo
Division	IV	Angie K. Schneider	Alamogordo

**THIRTEENTH JUDICIAL DISTRICT  
Cibola, Sandoval & Valencia Counties**

Division	I	James Lawrence Sanchez	Los Lunas
Division	II	George P. Eichwald	Bernalillo
Division	III	Allen R. Smith	Los Lunas
Division	IV	Pedro Rael	Grants
Division	V	Louis P. McDonald	Bernalillo
Division	VI	Cindy M. Mercer	Los Lunas
Division	VII	John F. Davis	Bernalillo
Division	VII	Cheryl H. Johnston	Bernalillo

**DISTRICT ATTORNEYS**

First Judicial District	Jennifer Padgett	Santa Fe, Rio Arriba & Los Alamos
Second Judicial District	Kari E. Brandenberg	Bernalillo
Third Judicial District	Mark D'Antonio	Doña Ana
Fourth Judicial District	Richard D. Flores	San Miguel, Guadalupe & Mora
Fifth Judicial District	Dianna Luce	Chaves, Eddy & Lea
Sixth Judicial District	Francesca Martinez-Estevez	Grant, Luna & Hidalgo
Seventh Judicial District	Clint H. Wellborn	Catron, Sierra, Socorro & Torrance
Eighth Judicial District	Donald A. Gallegos	Taos, Colfax & Union
Ninth Judicial District	Andrea R. Reeb	Curry & Roosevelt
Tenth Judicial District	Timothy L. Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Robert "Rick" P. Tedrow	Division 1: San Juan
	Karl R. Gillson	Division 2: McKinley
Twelfth Judicial District	David Ceballes	Otero & Lincoln
Thirteenth Judicial District	Lemuel L. Martinez	Sandoval, Valencia & Cibola

**STATE SENATORS SERVING IN THE FIFTY-SECOND LEGISLATURE  
STATE OF NEW MEXICO  
SECOND SESSION  
CONVENED JANUARY 19th, 2016**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	William E. Sharer	Farmington
2	San Juan	Steven P. Neville	Aztec
3	McKinley & San Juan	John Pinto	Tohatchi
4	Cibola, McKinley & San Juan	George K. Muñoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Richard C. Martinez	Española
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros	Questa
7	Curry, Quay & Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo & Sandoval	John M. Sapien	Corrales
10	Bernalillo & Sandoval	John C. Ryan	Albuquerque
11	Bernalillo	Linda M. Lopez	Albuquerque
12	Bernalillo	Gerald Ortiz y Pino	Albuquerque
13	Bernalillo	Bill B. O'Neill	Albuquerque
14	Bernalillo	Michael Padilla	Albuquerque
15	Bernalillo	Daniel A. Ivey-Soto	Albuquerque
16	Bernalillo	Cisco McSorley	Albuquerque
17	Bernalillo	Mimi Stewart	Albuquerque
18	Bernalillo	Lisa A. Torraco	Albuquerque
19	Bernalillo, Sandoval, Santa Fe & Tarrant	Sue Wilson Beffort	Sandia Park
20	Bernalillo	William H. Payne	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan, & Sandoval	Benny Shendo, Jr.	Jemez Pueblo
23	Bernalillo	Sander Rue	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Jacob R. Candelaria	Albuquerque
27	Chaves, Curry, DeBaca, Lea & Roosevelt	Stuart Ingle	Portales
28	Catron, Grant & Socorro	Howie C. Morales	Silver City
29	Bernalillo & Valencia	Michael S. Sanchez	Belen
30	Cibola, McKinley, Socorro & Valencia	Clemente Sanchez	Grants
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy & Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln & Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy & Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna & Sierra	John Arthur Smith	Deming
36	Doña Ana	Lee S. Cotter	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Mary Kay Papen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Tarrant & Valencia	Ted Barela	San Jose
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy & Lea	Carroll H. Leavell	Jal
42	Chaves, Eddy & Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-SECOND LEGISLATURE**  
**STATE OF NEW MEXICO**  
**SECOND SESSION**  
**CONVENED JANUARY 19th, 2016**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rodney D. Montoya	Farmington
2	San Juan	James R.J. Strickler	Farmington
3	San Juan	Paul C. Bandy	Aztec
4	San Juan	Sharon Clahchischilliage	Kirtland
5	McKinley & San Juan	D. Wanda Johnson	Crownpoint
6	Cibola & McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Belen
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley & San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andres Romero	Albuquerque
11	Bernalillo	Javier. I. Martinez	Albuquerque
12	Bernalillo	Patricio R. Ruiloba	Albuquerque
13	Bernalillo	Patricia A. Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Sarah Maestas Barnes	Albuquerque
16	Bernalillo	Antonio "Moe" Maestas	Albuquerque
17	Bernalillo	Deborah A. Armstrong	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Sheryl Williams Stapleton	Albuquerque
20	Bernalillo	Jim Dines	Albuquerque
21	Bernalillo	Idalia Lechuga-Tena	Albuquerque
22	Bernalillo, Sandoval & Santa Fe	James E. Smith	Sandia Park
23	Bernalillo & Sandoval	Paul A. Pacheco	Albuquerque
24	Bernalillo	Conrad D. James	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Georgene Louis	Albuquerque
27	Bernalillo	Larry A. Larrañaga	Albuquerque
28	Bernalillo	Jimmie C. Hall	Albuquerque
29	Bernalillo	David Edward Adkins	Albuquerque
30	Bernalillo	Nate Gentry	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Grant, Hidalgo & Luna	Dona G. Irwin	Deming
33	Doña Ana	Bill McCamley	Mesilla Park
34	Doña Ana	Bealquin Bill Gomez	Las Cruces
35	Doña Ana	Jeff Steinborn	Las Cruces
36	Doña Ana	Andrew "Andy" Nuñez	Las Cruces
37	Doña Ana	Terry H. McMillan	Las Cruces
38	Grant, Hidalgo & Sierra	Dianne Miller Hamilton	Silver City
39	Doña Ana, Grant & Sierra	John L. Zimmerman	Las Cruces
40	Colfax, Mora, Rio Arriba & San Miguel	Nick L. Salazar	Ohkay Owingeh
41	Rio Arriba, Santa Fe & Taos	Debbie A. Rodella	Española
42	Taos	Roberto "Bobby" J. Gonzales	Taos
43	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Stephanie Garcia Richard	Los Alamos
44	Sandoval	Jane E. Powdrell-Culbert	Corrales
45	Santa Fe	Jim R. Trujillo	Santa Fe
46	Santa Fe	Carl Trujillo	Santa Fe
47	Santa Fe	Brian F. Egolf, Jr.	Santa Fe
48	Santa Fe	Luciano "Lucky" Varela	Santa Fe



**STATE REPRESENTATIVES (continued)**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
49	Catron, Socorro & Valencia	Don L. Tripp	Socorro
50	Bernalillo, Santa Fe, Torrance & Valencia	Matthew McQueen	Galisteo
51	Otero	Yvette Herrell	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana & Otero	Rick Little	Chaparral
54	Chaves, Eddy & Otero	James G. Townsend	Artesia
55	Eddy	Cathrynn N. Brown	Carlsbad
56	Lincoln & Otero	Zachary J. Cook	Ruidoso
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves & Lincoln	Nora Espinoza	Roswell
60	Sandoval	Tim D. Lewis	Rio Rancho
61	Lea	David M. Gallegos	Eunice
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt & San Miguel	George Dodge, Jr.	Santa Rosa
64	Curry	Randal S. Crowder	Clovis
65	Rio Arriba, San Juan & Sandoval	James Roger Madalena	Jemez Pueblo
66	Chaves, Lea & Roosevelt	Bob Wooley	Roswell
67	Colfax, Curry, Harding, Quay, Roosevelt, San Miguel & Union	Dennis J. Roch	Texico
68	Bernalillo	Monica Youngblood	Albuquerque
69	Bernalillo, Cibola, McKinley, San Juan Socorro & Valencia	W. Ken Martinez	Grants
70	San Miguel, Santa Fe & Torrance	Tomás E. Salazar	Las Vegas